



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312899-22

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<b>Development</b>	Construction of a dwelling incorporated into development granted under reference P19/119, connection to public services and ancillary site works. .
<b>Location</b>	Ardoughan, Ballina, Co Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	21/1291
<b>Applicant</b>	John Craven
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v. Refusal
<b>Appellant</b>	John Craven
<b>Observer(s)</b>	Will Byron
<b>Date of Site Inspection</b>	19 <sup>th</sup> day of October 2022
<b>Inspector</b>	Fergal Ó Bric

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the western outskirts of the town of Ballina, approximately 1.5km from the town centre. The site has a stated area of 0.030 hectares and forms part of the larger 45 unit housing development, Ardoughan. This housing development is partially inhabited and partially under construction.
- 1.2. The subject site fronts onto an internal roadway which in turn connects to the Old Crossmolina Road (L1119). There are a number of Mayo County Council buildings located further east of the Ardoughan development which are accessed from a common entrance with Ardoughan, off the L1119.
- 1.3. The appeal site is centrally located within Ardoughan with other detached and semi-detached dwellings located immediately east, west and north of the appeal site and an area of public open space to its south, that is presently being used as a construction compound space. The predominant land use in the surrounding area is residential on the edge of the Ballina town boundary.

## 2.0 Proposed Development

- 2.1. The development would comprise the following:
  - A two storey detached dwelling house with a floor area of 160 square metres (sq. m.) in area, with a ridge height of 8.5 metres.
  - A vehicular entrance and 3 car parking spaces which provide direct access onto the existing internal estate road.
  - Connection to public sewer, public mains and surface water drain and ancillary site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Permission was refused by the planning authority for one reason as follows:

1. It is considered that the proposed development if permitted, would contravene materially the objectives of the Ballina and Environs Development Plan 2009-2015 (as extended), with specific reference to paragraph 3.1.4 Public Open Space. Furthermore, the proposed development would result in a considerable loss of the most useable public open space area for the overall residential site and would therefore, result in overdevelopment of a residential site and would be a substandard form of development and would seriously injure the amenities and depreciate the value of property in the vicinity and would establish an undesirable precedent for similar future development in the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The recommendation to refuse planning permission in the Area Planner's report reflects the decision of the Planning Authority. The main points raised in the report can be summarised as follows:

- Under the previously permitted development within the overall Ardoughan site (P.A. Ref P19/119), 4 dwelling units were conditioned to be omitted from the housing development. As a result, the overall number of residential units was reduced from 49 to 45 units.
- In relation to the four units that were omitted, these areas were conditioned to be levelled and seeded and incorporated within the areas of public open space.
- The area planner set out that the current proposals would materially contravene Section 3.1.4 of the Ballina and Environs Development Plan 2009-2015 (as extended). This area is presently permitted as public open space and its loss would result in a substandard form of development and result in the creation of a non-useable open space area within the residential development.

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

- Municipal District Architect: Is not in favour of losing a part of this centrally located public open space which is a valuable amenity for the residents of Ardoughan. If permitted, the current proposal would result in another variation to the originally approved development, permitted in 2019.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. One received: This observation set out that the current proposal would result in a material alteration to the original residential layout as permitted in 2019.

## 4.0 Planning History

- An Bord Pleanála reference 308913-20-ABP, in 2021 the Board upheld a decision of the Planning Authority under planning reference 20/708 to grant planning permission for the development of a dwelling and ancillary site works within the Ardoughan residential development.
- Planning Authority reference P19/119 – Permission granted in August 2019 for the construction of 45 no. dwelling houses with connection to public sewer and public water main and all ancillary site works.

The Board should note that in this case the original number of units applied for was 49 but this was reduced by 4 no. units due to concerns in relation to the location and supply of public open space, which in the planning authority's initial opinion was peripheral. The omission of the four units provided for a better overall layout and provision of useable open space and therefore, the protection of residential amenities for future occupants.

Condition no.2 of notification of decision to grant permission outlines this reduction in unit numbers and states that the areas where the previously proposed units were to be located shall be levelled and seeded with grass to become a useable open space/green area. The reason stated was '*in the interest of residential amenity and proper planning and development.*

- An Bord Pleanála reference 300863-18 – Section 9 Appeal against section 7(3) Notice. The Board determined in June 2018 that the site is not a vacant site within the meaning of the Urban Regeneration and Housing Act, 2015.
- An Bord Pleanála reference PL.36.223809 (P.A. Ref.P06/702808) – Permission granted by the Board in November 2007 for 57 no. houses. The original number of units applied for on site was 71.

## 5.0 Policy Context

### 5.1. National Guidelines

5.1.1. The following planning guidance documents are relevant:

- Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2019 (latest revision)).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009).
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

### 5.2. 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 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.

## **Volume 2: Development Management Standards:**

Section 2.12 Surface water

Section 4.5.3 Urban infill sites

Section 4.7 Public open space:

In greenfield sites, the minimum area of multi-functional public open space that shall be provided is 15% of the total site area and public open space should be provided within 150 metres walking distance of every house in a new residential development.

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

### **5.3. Ballina and Environs Development Plan 2009-2015 (as varied)**

- 5.3.1. The lands are zoned Phase 1 Residential – the plan states that these lands “*shall comprise of all undeveloped residentially zoned lands which currently have live*

*planning permissions that are either unfinished or not yet commenced. Phase I. lands shall also include residentially zoned lands that have been left in an incomplete and derelict condition as a result of former construction activity and because of this could not conceivably revert back to Agricultural/Amenity use”.*

5.3.2. All lands in Phase 1 shall be developed in compliance with their current R1 or R2 zoning as indicated on Map No. 06 (variation).

5.3.3. Other relevant sections of the Ballina and Environs Development Plan include:

- Section 3.1 Residential Use Standards
- Subsection 3.1.1 Introduction - Residential Density
- Subsection 3.1.2 Plot Ratio - B) Suburban Areas (R1 & R2 Zones)

Within the range of densities stated above, the actual density permitted in any location will be determined by considering the following factors:

1. The capacity of the infrastructure to cater for future population levels.
2. Existing landscape and other features on site.
3. Provisions relating to car parking, open space, landscaping and planting.
4. Existing building lines or townscape character.
5. Principles of sustainability.
6. Proximity to main transportation routes.
7. Design Quality – higher densities may be permitted in developments exhibiting high levels of design and layout.

Notwithstanding the above, on lands designated Phase I under the Core Strategy and zoned R2-Residential, a plot ratio of 1:25 shall be the norm.

- Subsection 3.1.4 Public Open Space

*Public open space is one of the key elements in defining the quality of the residential environment. It provides passive as well as active amenity and has important ecological and environmental aspects. The public open space requirement within housing development, which is to be provided by the developer, is as follows:  
Greenfield/suburban sites - Minimum 15% of total site area.*

- Subsection 3.1.6 Overlooking/Minimum Rear Garden Size
- Section 3.2 Standards on Design and Layout

- Subsection 3.2.1 Road Standards
- Subsection 3.2.4 Housing Layout and Design
- Section 3.4 Standards for Infill Development
- Subsection 3.4.1 Infill Development

## 5.4. Natural Heritage Designations

5.4.1. The nearest designated sites to the appeal site are:

- River Moy SAC (Site Code:002298) is located c.1.6km southeast of the appeal site.
- Killala Bay/Moy Estuary SAC (Site Code: 000458) is located c.1.9km east of the appeal site.
- Killala Bay/Moy Estuary SPA (site Code:004036) is located c. 2.9km north east of the appeal site.

## 5.5. EIA Screening

5.5.1. Having regard to the nature and scale of the proposed development, comprising a single residential unit within a fully serviced site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A first-party appeal has been lodged by Mr. John Craven and the grounds of appeal include the following:

- The Ballina and Environs Development Plan 2009 sets out the minimum green area/open space to be provided in greenfield suburban sites is 15% of the total site area.



- The current layout for the development granted under P19/119 has a total public open space/public green space allocation of 21.5% of the total site area, and this figure excludes the grass margin areas. The public open space provision within the development is well in excess of the specified minimum requirements (15% public open space) to satisfy the guidelines of the Mayo County Development Plan.
- 10 of the dwelling units granted under P19/119 do not access their properties from the internal service road, but instead access directly onto the Old Claremorris Road.
- 70 units were originally permitted on this site and no traffic issues were raised.
- It is proposed to incorporate landscaping including semi-mature trees and other planting in accordance with the landscaping plan as permitted under planning reference P19/119. The landscaping plan for Ardoughan, as agreed with the horticulturalist within Mayo County Council includes for a biodiversity area, screening of walls, agreed species of trees and a number of smaller public open space areas, suitable for smaller children.
- The existing houses have generous rear garden private amenity spaces, in excess of the 100sqm per residential unit.
- The boundary treatment for the proposed dwelling would be consistent with those permitted and being developed under the P19/119 permission, as detailed under condition no.8.
- The location of the proposed dwelling will not adversely impact on the traffic flows through the development.
- The development permitted under P19/119 is a low density development at 5.97 houses per acre (total site area 7.5acres with 45 dwellings granted). This site previously had a development granted at a density of approximately 10 houses per acre i.e., a total of 70 units. The proposed dwelling will not adversely affect the density of the overall development bringing the density of the overall site to approximately 6.1 houses per acre.
- The overall development site in which the house is to be located is of sufficiently low density to incorporate another dwelling.

- The overall residential layout would not be adversely affected by the current proposal.
- The proposed dwelling is of a similar design to the semi-detached two-bedroom dwelling houses granted under P19/119. The current proposal is smaller and more affordable; however, the quality of the finishes remain high, and a mix of house types is provided for within the overall development.

## 6.2. Planning Authority Response

None received.

## 6.3. Observations

One received from Mr Will Byron of Ardoughan Woods, and counter signed by a number of other signatories. The issues raised within his observation include the following:

- The Planning Authority refused planning permission for the development, and he fully agrees with the decision of the Planning Authority.
- The areas of public open space have diminished with the construction of additional dwelling units above what was originally permitted.
- The remaining public open space would comprise fragmented areas
- The MCDP sets out that public open spaces should be suitably proportioned and useable.
- 15% of public open space is a minimum requirement set out in the Development Plan,
- An Bord Pleanála have precedent in refusing planning permission for development even when the 15% public open space standard was achieved.
- Given the price of the properties in the Ardoughan development, it would be expected that ample green space would be provided.
- The current proposals would represent a third additional dwelling to the development originally permitted.

- The current proposals would contravene materially the development objectives of the Ballina and Environs Development Plan 2009-2015, with specific reference to Section 3.1.4, regarding public open space.
- The area of green space that would partially be lost within the current proposals is the safest, largest and best shaped play area for informal children’s ball games and communal interaction and is centrally located and therefore, ideal for accessibility.
- Open spaces can strengthen ties within communities, provide meeting places for residents and foster social ties.

## 7.0 Assessment

7.1. I consider that the main issues in this appeal relate to the issues raised within the refusal reason set out by the Planning Authority and the response to the issues raised within the first party appeal. I am satisfied that other issues in relation to access, car parking and boundary treatment were deemed to have been satisfactorily addressed by the applicants and the Planning Authority did not raise issue with these matters within its decision. The following are considered to be the pertinent issues within the planning assessment:

- Principle of Development
- Public Open Space and Residential Amenity
- Design and Layout
- Access and Car Parking
- Appropriate Assessment

### 7.2. Principle of Development

7.2.1. The subject site is located within the Ballina town boundary and is zoned for Phase 1 Residential development, as defined in the Ballina Town and Environs Development Plan 2009-2015 (as varied), herein after referred to as BTEDP. The BTEDP states that “*All lands in phase 1 shall be developed in compliance with their current R1 or R2 zoning as indicated on Map NO 06 (variation)*”, this map shows the current site designated as R2 Low Density. Section 3.1.2 of the BTEDP states that for “*Suburban*

*Areas (R1 & R2 Zones)*” on lands designated Phase 1 under the Core Strategy and zoned R2-Residential, a plot ratio of 1:25 shall be the norm. The applicant is seeking to construct an additional dwelling house, centrally located within the Ardoughan housing estate which is currently under construction. I note that the current applicant was also the developer of this original housing estate, and the submitted site location map (Drawing No. P01) indicates the lands associated with this larger housing estate are within the applicant’s ownership. While residential development is permissible in principle on the site under the current zoning, other considerations also have to be taken into account, in particular given that the site is located on a portion of the designated public open space, originally designated under the permitted housing development. These issues are examined in more detail in the sections below.

### **7.3. Public Open Space and Residential Amenity**

- 7.3.1. The first part of the reason for refusal set out by the Planning Authority specifically sets out that the proposals would contravene materially development objectives of the Ballina and Environs Development Plan 2009-2015 (as extended) with specific reference to paragraph 3.1.4 which specifically relates to public open space. The public open space standard for Greenfield/suburban sites is set at a minimum of 15% of total site area.
- 7.3.2. The appeal site comprises an area of 300 sqm. This area would, therefore, be deducted from the overall allocation of public open space for the overall housing estate, if the development is to be permitted. The housing development approved under P.A. Ref 19/119 had a public open space allocation of 26% of the total site area. The total site area for the entire housing estate is stated at 3.047ha. Therefore, even with the development of the current proposal, the public open space provision within the overall development would be 21.5%, well in excess of the Development Management standard of 15%. While I acknowledge that the proposed development would see a reduction in public open space provision (within the centre of the development), I consider the remainder of the centrally located public open space in conjunction with the three other areas of public open space throughout the development, will provide sufficient quality and quantity of public open space to the benefit of its residents and would not result in overdevelopment of the residential development. I am satisfied that the current proposals are in accordance with Section 3.1.4 of the Ballina and Environs Development Plan 2009-2015 (as

extended) and would not materially contravene this provision within the Development Plan.

- 7.3.3. Therefore, in conclusion, given the allocation of open space intended to serve the estate, I am satisfied that the proposed development would not injure the residential amenities of the area through the loss of useable open space and that the development, would not represent a substandard form of development and would be in compliance with the public open space standards as set out within Section 3.1.4 of the BTEDP and the current Mayo County Development Plan 2022-2028.

#### **7.4. Design and Layout**

- 7.4.1. As part of the previous planning application on site P.A. Ref. 19/119 three different house designs were included, the proposed four bedroomed detached dwelling (type f) most closely resembles “House Type D” which although comprised a semi-detached unit, was of similar two storey design, however had a floor area of circa.128 sq. m and comprised 4 no. bedrooms only. The current proposal is for a dwelling house of 160 sqm and 4 no. bedrooms with an overall ridge height of 8.56 metres. The design of the front façade of the dwelling is consistent with that of the neighbouring dwellings whereby the front elevation would comprise of fenestration detailing with a strong vertical emphasis. I consider the design to be suitable within this suburban context and note that a mix of dwelling types and sizes would be provided within the overall development, ranging from two bedrooms to five bedrooms.
- 7.4.2. The proposed dwelling is centrally located within the northern section of the housing estate. The dwelling house is to be angled, with the front elevation facing slightly to the north east, thus allowing it to follow the curve of the internal estate road and in my opinion integrate into the estate in a more subtle manner. Private open space is to be provided to the rear of the dwelling house and an area of approximately 112 sq. m has been provided which satisfies the requirements of Section 4.8 of Volume 2 of the Mayo County Development Plan 2022-2028, in addition the minimum of 10m rear garden depth has also been provided as required.
- 7.4.3. In summary, I am satisfied that the development approach taken, including the private amenity space and housing layout, would be in keeping with the character

and pattern of development in the immediate area and would be appropriate having regard to the pattern of the surrounding urban form.

## **7.5. Access and Car Parking**

- 7.5.1. The appeal site fronts onto the internal estate road which was approved under P.A. Ref. 19/119. This road then connects to a cul de sac which connects in turn to the Old Crossmolina Road local road (L1119) to the south.
- 7.5.2. The site layout plan (Drawing No. P03) submitted as part of the planning documentation illustrates three car parking spaces on the subject site, with direct access onto the internal estate road unimpeded by gates or boundary walls. Given the restricted speeds within the estate and the clear visibility possible given the flat nature of the site, I would not consider the provision of direct access to off-street car parking at this location a traffic hazard. A 30km/h slow zone road sign is located at the entrance to the estate and a stop sign is located at the estate road exit/junction with the access road off L1119, therefore, I would consider that the estate road has included sufficient measures to reduce vehicle speeds.
- 7.5.3. The vehicular entrance provides access onto the internal estate Road 1 (as illustrated on submitted site layout plan) and is located to the north west of the junction of internal estate road 2 with internal estate road 3. The Development Plan does not make specific reference to road design standards applicable to this location, which is within the 30km/h speed limit zone on an internal estate road. It instead refers under Section 16.5 to the minimum requirements set out for access and proximity to road junctions with the lowest denomination of same being a “local road”. In this case the development would meet the standards outlined and the required 30 metre distance set out for housing developments, as set out in table 5, Volume 2 of the Development Plan regarding Access and proximity to road junctions.
- 7.5.4. In conclusion, I consider the proposal to be in compliance with the stated sections of the Development Plan and I would not consider that the proposed development would significantly reduce the capacity or free flowing nature of traffic on the estate road, nor would it exacerbate any traffic safety issues on site.

## **7.6. Appropriate Assessment**

- 7.6.1. The appeal site is located approximately 100 metres south of a watercourse which connects to the Scuffainbrogue River which in turn flows into the River Moy Special Area of Conservation (Site code: 002298) approximately 1.6km southeast of the site.
- 7.6.2. Having regard to the nature and scale of the proposed development, comprising the construction of one additional dwelling unit, which would be connected to existing water services within an existing built up area, including surface water management via surface water sewers, installed in compliance with the conditions of the permitted Ardoughan development in 2019. and the separation distance to the nearest relevant European site, 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**

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

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the provisions of the Mayo County Development Plan 2022-2028 and the Ballina and Environs Development Plan 2009-2015 (as extended), the Phase 1 Residential zoning objectives for the site, the nature and scale of the proposed development and the existing pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would respect the character of existing development in the area and would not injure the residential amenities of the area and would provide a suitable level of amenity for future occupants. 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 received by An Bord Pleanála on the 2<sup>nd</sup> and 10<sup>th</sup> days of

March 2022, 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. The materials, colours and textures of all the external finishes to the proposed house shall be submitted to and agreed in writing with the planning authority before the commencement of development.

**Reason:** In the interest of the visual and residential amenities of the area.

3. Details of the boundary walls to surround the dwelling and vehicular entrance/car parking shall be submitted to and agreed in writing with the planning authority before the commencement of development.

**Reason:** In the interest of the visual and residential amenities of the area.

4. (a) Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.  
(b) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

6. The site development works, and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried



out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development

7. 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.

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Fergal Ó Bric  
Planning Inspectorate

29<sup>th</sup> December 2022