



An
Bord
Pleanála

Inspector's Report PL04.249312

Development

Construction of 4 No. two-storey 2 bedroom dwellings and all associated site works consisting of the following: removal of front boundary wall to the south and construction of a new boundary wall, removal of the eastern boundary ditch to allow for the construction of a new connecting public footpath and all associated drainage and site works.

Location

Rock Road, Mallow, Co. Cork.

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

17/5670

Applicant(s)

Tom Barry

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party v. Decision

Observer(s)

John Lucey & Others

Mairead Nagle

Date of Site Inspection

9th December, 2017

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in an established residential area, approximately 750m northwest of Mallow town centre, where it occupies a corner plot at the junction of a narrow laneway with Rock Road. This minor roadway subsequently extends northwards from Rock Road to provide access to a number of individually developed dwelling houses before terminating in a cul-de-sac. The surrounding area is characterised by a variety of housing development with mature detached and semi-detached properties occupying those lands to the immediate north, east and west, whilst the more recently developed scheme known as Shortcastle Rise along the southern side of Rock Road comprises more conventional two-storey terraced units with front and rear garden areas and off-street car parking.
- 1.2. The site itself has a stated site of 0.06 hectares, is rectangular in shape, and presently comprises a vacant overgrown plot of land which was previously occupied by a dwelling house that has since been demolished. It adjoins a narrow laneway / residential access to the east, Rock Road to the south, and existing residences to the north and west. At present, the southern site boundary onto Rock Road is defined by a low wall and railings whilst the eastern site boundary is composed of a ditch / hedgerow with the remaining northern and western site boundaries defined by blockwork walls.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a terrace of 4 No. two-storey, 2-bedroom dwelling houses in a staggered / stepped format alongside a narrow laneway which extends northwards from its junction with the main carriageway (Rock Road). Each of the proposed dwelling houses will open directly onto a new pedestrian footpath to be constructed alongside the laneway and will be provided with a private rear garden area whilst a communal off-street car parking area will be provided to the south of the terrace adjacent to the junction with Rock Road. Associated site development works include the repositioning of the existing southern site boundary southwards.

- 2.2. The individual house designs are based on a simple rectangular plan with an asymmetrical front elevation whilst the external finishes include naturally coloured roof slates and a smooth plaster render. Notably, whilst it would appear that each of the proposed dwelling houses will be of an identical design with a stated floor area of 83.48m², it should be noted that House No. 1 (coloured red on the submitted drawings) is actually wider than the remaining units and thus will have a proportionately greater floor area.
- 2.3. Access to the shared parking area will be obtained from the minor roadway / laneway to the east of the site. Water supply and sewerage services are available from the public mains.

N.B. An application for a Certification of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, has accompanied the planning application.

3.0 **Planning Authority Decision**

3.1. **Decision**

On 28th August, 2017 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:

- The proposed development would be located in an established residential area of Mallow town. As stated in policy objective H1-2 of the Mallow Town Development Plan 2010 – 2016, proposals for new residential development in established built up residential areas shall be permitted where it is demonstrated that the proposal would not be detrimental to the residential amenity or character of that residential area. It is considered that the proposed development, by virtue of its layout, form, scale and design and the restricted nature of the site and its relationship with adjoining properties and the surrounding area, would be seriously injurious to the residential amenity of the residence on the adjoining site to the west due to overshadowing and visual obtrusiveness and it would constitute overdevelopment and detract from the visual amenity and character of the area. Accordingly, the proposal would be contrary to the stated Mallow Town Development Plan objective,

would set an undesirable precedent for future similar development, and the proposed development would be contrary to the proper planning and sustainable development of the area.

- The proposed development would endanger public safety by reason of traffic hazard because the access laneway from the public road to the site is unsatisfactory due to its restricted width and by virtue of the location and proximity of the entrance on a narrow road close to the junction with Rock Road. The proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Refers to the site location on lands zoned as ‘*Established Residential*’ within the development boundary of Mallow town and details the planning history of the site, with particular reference to the decision to refuse permission for the erection of 4 No. apartments and a ground floor retail unit under ABP Ref. No. PL70.219276. The report subsequently assesses the overall layout and design of the submitted proposal and considers the proposed density to be excessive in light of the surrounding pattern of development. Further concerns are raised as regards the manner in which the proposed housing will address Rock Road, the proximity to (and relationship with) the neighbouring dwelling house to the immediate west, the potential for overshadowing of adjacent property, visual obtrusiveness, and the suitability of the proposed access / parking arrangement. The report then concludes by recommending a refusal of permission which was endorsed by the Acting Senior Executive Planner.

3.2.2. Other Technical Reports:

Public Lighting: No objection, subject to conditions.

Estates: No objection, subject to conditions.

Area Engineer: Recommends that permission be refused for the following reasons:

- The proposed development would endanger public safety by reason of traffic hazard because the access laneway from the public road to the site is unsatisfactory by virtue of its restricted width.
- The proposed development would endanger public safety by reason of traffic hazard because of the location of the entrance on a narrow road close to a road junction.

3.3. Prescribed Bodies

Irish Water: Recommends that further information be sought in order to determine the feasibility of a connection to the public water supply.

3.4. Third Party Observations

A total of 9 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Encroachment of a private roadway / right of way.
- The substandard nature / inadequacy of the adjacent laneway / roadway.
- The potential for on-street car parking and the obstruction of road users.
- The inadequacy of the proposed on-site car parking arrangements.
- Inconsistencies in the stated site area when compared to previous planning applications.
- Excessive density of development / overdevelopment of a restricted site.
- Detrimental visual impact / visual obtrusiveness
- The overall design and layout of the proposal is out of character with the surrounding pattern of development.
- Inadequate provision for bin storage.
- Increased traffic congestion / hazard at the junction with Rock Road.
- The relocation of the southern site boundary will impede the sightlines available for vehicles entering / exiting the existing laneway.
- The proposed opening of the front doors of the housing onto the laneway poses a safety hazard.

- There are discrepancies in the submitted plans and particulars as regards the extent of private open space proposed.
- The absence of any provision for bicycle parking.
- Detrimental impact on the residential amenity of neighbouring property by reason of overlooking, overshadowing, loss of light, and overbearing appearance.

4.0 Planning History

4.1. On Site:

PA Ref. No. 0555077 / ABP Ref. No. PL70.219276. Was refused on appeal on 4th January, 2007 refusing Tom Barry permission for the erection of four number apartments, a ground floor retail unit, associated parking and site development works for the following reasons:

- The proposed development, by reason of the scale and bulk of the proposed buildings and their relationship with adjoining properties and the surrounding area, would constitute overdevelopment of this restricted site, would be out of character with the surrounding pattern of development, would result in a substandard form of residential amenity for future residents and would seriously injure the residential amenities of adjoining properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- The proposed development, by reason of the traffic movements likely to be generated by the proposed development and the deficiencies in the adjoining road network, in particular, the adjoining laneway and its junction with the Rock Road would create a traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

N.B. Please refer to the report of the case planner for a synopsis of the earlier planning history of the site.

4.2. On Adjacent Sites:

PA Ref. No. 155692. Was granted on 27th October, 2015 permitting Der & Kay Cronin permission for the demolition of existing commercial stores and to construct a single storey dwelling house along with all associated site works, change of use of existing commercial stores to domestic store sheds and commercial vehicular access to domestic vehicular access, all at Rock Road, Mallow, Co. Cork.

4.3. *On Sites in the Immediate Vicinity:*

PA Ref. No. 0855009. Was granted on 16th June, 2008 permitting Bill & Marian Keary permission for the retention of alterations to existing dwelling at Rock Cottage, Rock Road, Mallow, Co. Cork.

5.0 **Policy Context**

5.1. **National and Regional Policy:**

The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*’ note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

5.2. **Development Plan**

5.2.1. ***Cork County Development Plan, 2014:***

Chapter 2: Core Strategy:

Section 2.3: *The Network of Settlements*

Section 2.4: *Settlement Strategy*

Chapter 3: Housing:

Section 3.3: *Delivering Sustainable Residential Communities*

HOU 3-1: Sustainable Residential Communities:

- a) Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, in development plan preparation and in assessing applications for development through the development management process.
- b) Promote development which prioritises and facilitates walking, cycling and public transport use, both within individual developments and in the wider context of linking developments together and providing connections to the wider area, existing facilities and public transport nodes such as bus and rail stops.
- c) Following the approach in chapter 10 of this plan, ensure that urban footpaths and public lighting are provided connecting all residential developments to the existing network of footpaths in an area and that the works required to give effect to this objective are identified early in the planning process to ensure such infrastructure is delivered in tandem with the occupation.

HOU 3-2: Urban Design:

- a) Ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas, the accompanying Urban Design Manual and the Council's Design Guide for Residential Estate Development in development plan preparation and in assessing applications for development through the development management process.

- b) Provide additional guidance, including principles and policies, on urban design issues at a local level, responding to local circumstances and issues. Where appropriate Local Area Plans will consider the need for the provision of additional guidance in the form of design briefs for important, sensitive or large scale development sites.
- c) Require the submission of design statements with all applications for residential development in order to facilitate the proper evaluation of the proposal relative to key objectives of the Development Plan with regard to the creation of sustainable residential communities.
- d) Require developers to take account of the Design Manual for Urban Roads and Streets (DMURS).

HOU 3-3: Housing Mix:

- a) Secure the development of a mix of house types and sizes throughout the County as a whole to meet the needs of the likely future population in accordance with the guidance set out in the Joint Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas.
- b) Require the submission of a Statement of Housing Mix with all applications for multiunit residential development in order to facilitate the proper evaluation of the proposal relative to this objective.

Section 3.4: Housing Density:

5.2.2. Mallow Town Development Plan, 2010-2016:

Land Use Zoning:

The proposed development site is located on lands zoned as *'Established Residential'* with the stated land use zoning objective *'To provide for primarily residential development and other activities incidental to residential use'*.

Other Relevant Sections / Policies:

Chapter 8: Residential & Neighbourhood Strategy:

Section 8.3: Private Housing Supply

Section 8.4: Location of Future Housing Supply

Section 8.5: Objectives:

- H2:* Promote the concept of a 'compact town' by encouraging appropriate residential development on suitably zoned lands throughout the Plan area in conjunction with available infrastructure.
- H3:* Seek to make the most efficient use of land by applying appropriate residential densities in accordance with the recommendations set out in the 'Guidelines on Sustainable Development in Urban Areas (Cities, Towns and Villages) 2009'.
- H4:* Require an appropriate housing mix in new residential areas including design and size to provide for a variety of tenure and facilitate changing housing requirements.

Section 8.6: Policies:

Policy H1: New Residential Development:

- H1-2:* Proposals for residential development in established built up residential areas shall be permitted where it is demonstrated that the proposal would not be detrimental to the residential amenity or character of that residential area.
- H1-3:* Proposals for new residential development shall comply with the development control standards contained in this Plan.

Policy H3: Residential Density:

- H3-1:* The council shall seek to ensure the most effective and efficient use of urban lands, energy consumption, and transport requirements; protect and safeguard the established built and residential character and residential amenities of surrounding areas. In this regard a mixed density approach will be pursued which shall have regard to:
- a) Location and context of the site

- b) Quality of design
- c) Contribution of the development to the enhancement of the town form
- d) Connectivity to the town centre and linkages with other residential neighbourhoods, services and amenities; and
- e) Efficient use of energy, transport and natural resources.

H3-2: The council will advocate the recommendation set out in the 'Guidelines on Sustainable Development in Urban Areas (Cities, Towns and Villages) 2009' in consideration of density requirements.

Policy H4: Protection and Promotion of Residential Areas and Uses

Policy H6: Design Considerations:

H6-1: Proposals for all new residential development shall comply with all of the following:

- a) Respect the existing scale, character and / or form of the surrounding natural or built character area.
- b) Provides satisfactory provision of off-street car parking
- c) Demonstrates safe, convenient and attractive vehicular, pedestrian and cycling access and permeability through the development and adjoining developments (where possible)
- d) Provide connectivity with existing road and footpath infrastructure
- e) Provides adequate off-street parking
- f) Provides sufficient public and private amenity open space and landscaping; and
- g) Incorporate existing natural features into the development, including trees, hedgerows into the overall layout.

Chapter 13: Urban Design

Section 13.2.2: Residential Development

Chapter 15: Development Control & Standards:

Section 15.4: *Residential Standards*

Section 15.4.5: *Infill Development*

5.3. **Natural Heritage Designations**

The following Natura 2000 site is located approximately 800m south of the proposed development site:

- The Blackwater River (Cork / Waterford) Special Area of Conservation (Site Code: 002170).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- During the course of on-site meetings between the applicant's representatives and the Area Engineer, initial proposals were informally agreed and it was accepted that the scheme as proposed was satisfactory from a traffic safety perspective. It was also noted that the new footpath proposed along the existing laneway would serve to improve the security of same and would also provide a dedicated pedestrian link to the proposed housing as well as the existing dwelling houses to the rear of the site. In this respect it is further submitted that the proposed footpath will not encroach into the existing laneway and that the width of the carriageway is to be maintained (the proposed footpath will be 1.5m in width and will be set back from the edge of the existing carriageway into the application site).

In view of the positive feedback received during the course of the aforementioned discussions, the applicant was encouraged to proceed with the application, however, given that the report of the Area Engineer is in complete contrast to what was agreed on site, the applicant questions the benefit of such pre-planning consultations. In this regard it is submitted that the applicant has been very unfairly treated and thus the Board is requested to review the matter.

- A shadow impact study has been undertaken and it is submitted that the proposed development will not have a detrimental / adverse impact on the amenity of the neighbouring dwelling house. In this respect it is also of relevance to note that the subject site is presently very overgrown and that the existing trees within its confines have a significantly greater impact on the neighbouring property than the proposed development. In addition, the intervening boundary wall between the respective properties will cast more of a shadow than would be associated with the proposed development.
- The subject proposal is in keeping with the surrounding pattern of development, with particular reference to the existing housing within Shortcastle Rise and the apartment schemes adjoining same.
- The proposed development site is located in Mallow town centre and is within an approximate 5-minute walking distance of Main Street, the Garda Station, and Mallow social services etc.
- It is reiterated that the proposed development will not reduce the width of the adjacent roadway.
- The proposed footpath will be located entirely within the confines of the application site and was only included in order to enhance the existing private roadway and to link the area with the wider town.
- Whilst it is acknowledged that the adjacent roadway / laneway is not within the charge of Cork County Council and that the current users do not have title to same, it is proposed to rectify this matter in the event that the subject proposal is granted planning permission.
- The subject site has been in a derelict condition for over 15 No. years.
- The proposed housing will be developed in early 2018 and will be offered to Cork County Council in order to allow 4 No. families to exit emergency accommodation.
- There have been serial objections to any development of the subject site.
- The proposed development will not result in the overshadowing of neighbouring properties.

- Each of the proposed dwelling houses will be provided with 1 No. car parking space and ample private open space. Furthermore, in light of the town centre location of the site, consideration should be given to the fact that Cork County Council has purchased approximately 100 No. acres of town park and associated woodland amenity area for the local community in recent years.
- The proposed development is located within a 5-minute walking distance of the railway station and bus routes.
- Future occupants of the proposed development will not have to rely on access to a private car as all facilities / services will be within walking distance.
- Access to the application site is not reliant on having to travel through the town centre. The property is easily accessible via the outer ring / link road.
- At present, there is no new development in progress within Mallow town centre which serves to highlight the incoherence between the planning process and the social housing requirements of Cork County Council.
- The subject proposal is a well-designed and appropriate form of development in a location that accords with the policies and objectives of the Development Plan.
- The density of the proposed development complies with the applicable guidelines and has been specifically designed having regard to the site context.

6.2. Planning Authority's Response

- It was recommended that permission be refused having regard to the layout, form, scale and design of the proposed development, in addition to the location, characteristics and restricted nature of the site and the potential impacts on amenity.
- The Area Engineer recommended that permission should be refused by reason of traffic hazard.

6.3. Observations

6.3.1. John Lucey & Others:

- The overgrown nature of the existing site is due to the applicant's own actions / inaction.
- With regard to the applicant's reference to a relatively new estate having been constructed in the vicinity of Rock Road, it is submitted that this simply comprises a single row of houses along the main roadway.
- The proposed development includes for the reconstruction of the southern site boundary in a revised position located further south, however, any such extension of this wall into the existing footpath will serve to obstruct the sightlines available from the laneway onto the public road and thus poses a risk to public safety.
- In their previous assessment of ABP Ref. No. PL70.219276 the reporting inspector stated the following:

'traffic movements at this junction are confused and there is a lack of road markings and signage at the junction. The junction of the adjoining lane with Rock Road is deficient. The creation of additional traffic turning movements at this location would interfere with the free flow of traffic on this road and would contribute to congestion on this already busy road'.

It is considered that the subject proposal will exacerbate the aforementioned concerns.

- The observers' do not wish for their private roadway to become a 'public road' as has been described by the applicant in his proposal to construct a new 'public footpath'. It should also be noted that the verge between the site boundary and the roadway has been maintained by a local resident during the summer months.

- The assertion that the width of the existing roadway / laneway will not be reduced does not correspond with the submitted plans and particulars whilst the proposal to 're-jig' the width of the carriageway would be to the cost of other considerations given the confined space available.
- There are discrepancies in the submitted drawings as regards the width of House No. 1.
- The developer should rebuild the boundary wall alongside the laneway and maintain his property accordingly.
- Drg. No. TB-1128-03 clearly shows the proposed footpath extending onto the roadway at its juncture with Rock Road and subsequently continuing along the laneway.
- The applicant has no right or entitlement to build into the middle of any roadway beyond the site boundaries.
- The pre-planning discussions held between the applicant and the Area Engineer do not confer any right to a grant of planning permission.
- The subject proposal is not in keeping with the surrounding pattern of development.
- The observations on file by the Area Engineer are not incorrect.
- The proposed footpath is not within the confines of the application site and extends beyond the boundary of same as shown on Drg. No. TB-1128-03.
- The suggestion that the observers are 'serial objectors' is rejected.
- The applicant's suggestion that future occupants of the proposed dwelling houses will have no need for a car is rejected and should instead be interpreted as an acknowledgement of the deficiency in car parking provision.

6.3.2. Mairead Nagle:

- The first party appeal does not provide for any modifications to the proposed development which would address the observer's concerns as previously detailed in her original objection to the subject application.

- The proposed footpath does not comply with the minimum requirements of the Area Engineer. These standards are considered to be essential in order to facilitate pedestrian movement, particularly as the accessway to the application site already serves an existing network of dwelling houses in Mallow town.
- The existing laneway is not of a sufficient standard to accommodate the additional volumes of traffic consequent on the proposed development.
- Inadequate provision has been made for on-site car parking to serve the proposed dwelling houses and this shortfall is likely to result in increased incidences of cars parking alongside the roadway thereby giving rise to traffic hazard and the obstruction of other road users.
- The amended positioning of the roadside front boundary wall will impede the sightlines available at the junction of the existing laneway with Rock Road.
- Any conclusions drawn from the pre-planning consultations undertaken by the applicant do not outweigh the serious road safety issues identified.
- Given the proximity of the proposed development to the observer's dwelling house, it is considered that the subject proposal is contrary to Objective H1-2 of the Mallow Town Development Plan, 2010 which states the following:

'Proposals for residential development in established built-up residential areas shall be permitted where it is demonstrated that the proposal would not be detrimental to the residential amenity or character of that residential area'.

In this regard it is reiterated that the proposed development will have a detrimental impact on the residential amenity of the observer's property for the reasons outlined in her original objection to the subject application.

- Having regard to the site location and the provisions of the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities'*, it is submitted that the overall density of the proposed development is excessive and that the application site is only suitable for the provision of 1-2 No. dwelling houses.
- The proposed development does not comply with the minimum parking requirements of the Mallow Town Development Plan, 2010.

- The applicant has failed to have due regard to the advice obtained during the course of pre-planning discussions with the Planning Authority (as detailed in the report of the Senior Executive Planner).
- Notwithstanding the applicant's future intentions as regards the disposal / sale of the proposed housing, it is submitted that the dwelling houses must be of an acceptable standard.
- The subject application constitutes the overdevelopment of a confined site.
- The proposed development is of a poor quality both in terms of design and the level of amenity to be provided for its future occupants.
- The suggestion that the observer is a 'serial objector' is rejected.
- The observer would welcome a modest development on the subject site which is in keeping with the surrounding pattern of development.
- The Board is requested to have regard to the planning history of the site, including the reasons for the refusal of previous development proposals which included an excessive density of development (for proposals smaller than that presently under consideration), the fact that the proposal was out of character with the surrounding area, and the potential increase in traffic movements thereby resulting in the creation of a traffic hazard.
- It is clear from a review of the planning file that the Council undertook a thorough assessment of the subject application before it determined that the proposal constituted a substandard form of development.
- The proposed development has not had regard to the previous refusals of permission on site, the advice given during the course of pre-planning discussions, or the provisions of the Mallow Town Development Plan, 2010.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development

- Overall design and layout
- Impact on residential amenity
- Traffic implications
- Appropriate assessment
- Other issues

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

- 7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is located in an area zoned as *'Established Residential'* in the Mallow Town Development Plan, 2010-2016 with the stated land use zoning objective *'To provide for primarily residential development and other activities incidental to residential use'*. Accordingly, given that the surrounding area is primarily residential in character, it is clear that the proposed development accords with the aforementioned land use zoning objective.
- Furthermore, I would suggest that the proposed development can be considered to comprise a potential infill site situated within an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.
- 7.2.2. Therefore, having considered the available information, with particular reference to the site context and the relevant policy provisions of the Mallow Town Development Plan, 2010, and noting that the site would appear to have been previously occupied by a single dwelling house (since demolished) and thus has a historical residential use, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues,

including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

7.3. **Overall Design and Layout:**

- 7.3.1. The proposed development involves the construction of a single terraced block of 4 No. two-storey, 2-bedroom dwelling houses in a staggered / stepped format alongside a narrow laneway which extends northwards from its junction with Rock Road. In this regard it is notable that the subject site occupies a somewhat prominent position locally given its elevation relative to those lands to the west and its positioning at a bend in Rock Road which serves to provide a focal point for traffic travelling along same (particularly in a northbound direction).
- 7.3.2. Whilst I would concede that the surrounding pattern of development is dominated by two-storey dwelling houses of varying design and that the application site itself could accommodate an appropriate form of development which would represent a suitable transition between the single storey bungalow to the west and the two-storey dwelling house further east, I am not convinced that the submitted proposal is an appropriate design response to the site context. In this respect I would share the concerns of the Planning Authority as regards the blank and uninteresting gable elevation which will face towards Rock Road, particularly given the localised visibility of same. In my opinion, having regard to the relative elevation of the site, the height and scale of the development proposed, and its proximity to the main road, the subject proposal would constitute an incongruous feature when viewed from approaches to the site along Rock Road which would be unacceptable in terms of visual amenity.

7.4. **Impact on Residential Amenity:**

- 7.4.1. Concerns have been raised that the proposed development will have a detrimental impact on the residential amenity of neighbouring properties by reason of overlooking, overshadowing, loss of privacy, and visual impact / overbearing appearance. In this regard it is of particular relevance to note that in its decision to refuse permission the Planning Authority has specifically stated that the proposed development would be seriously injurious to the residential amenity of the adjacent dwelling house to the immediate west by reason of overshadowing and visual obtrusiveness.

- 7.4.2. Having reviewed the available information, in my opinion, it is apparent that the design of the proposed dwelling house has taken sufficient cognisance of the need to avoid any undue overlooking of neighbouring properties. In this respect I would advise the Board that in light of the orientation of the proposed dwelling houses relative to the neighbouring property to the immediate west and the limited separation distance available, the applicant has sought to address the potential for any overlooking of the adjacent residence through the absence of any first floor windows within the rear elevation of the proposed housing. It is also of relevance to note that the rooflights within the rear elevation of the proposed housing will be located at a considerable height over floor level and will only serve a landing area and a bathroom as opposed to any living / bedroom accommodation. In addition to the foregoing, the absence of any gable end windows within the proposed housing will serve to preserve the amenity of the adjacent property to the immediate north whilst the presence of an intervening roadway and the separation distance between the proposed development and the neighbouring dwelling house to the east will serve to avoid any undue overlooking of same.
- 7.4.3. In assessing the potential impact as regards a loss of light or overshadowing, it is necessary to consider a number of factors including the height of the structures concerned, their orientation, the separation distances involved, and their positioning relative to each another. Accordingly, having considered the submitted information, in my opinion, it is unlikely that the proposed construction, by reason of its overall height, positioning and proximity to neighbouring dwelling houses (with particular reference to the existing single storey bungalow to the immediate west), will give rise to such a diminution in the amount of direct sunlight / daylight received by the adjacent properties as to warrant a refusal of permission. In this respect I would further advise the Board that the subject site is situated in an urban area where some degree of overshadowing would be not unexpected. It should also be noted that some degree of overshadowing of the adjacent dwelling house to the immediate west of the application site could already be attributed to the existing wall along the intervening site boundary.
- 7.4.4. In relation to the concerns raised that the proposed development will have a visually overbearing influence / impact on neighbouring property, it should be acknowledged at the outset that the subject site occupies a locally prominent position on a corner

plot at the junction of a private laneway with Rock Road. This prominence primarily arises from the elevation of the site relative to those lands to the west which fall towards Lacknaloocha Road, the presence of a single storey bungalow on the adjacent site to the immediate west, and the site location on a sharp bend in Rock Road which serves to provide a focal point for traffic travelling along same.

- 7.4.5. Having conducted a site inspection, and following a review of the submitted information, I am inclined to suggest that in light of the positioning of the proposed development on site, with particular reference to the separation distance between the new construction and the existing dwelling house on the adjacent lands to the immediate west, and as the proposal will maintain the established building line onto Rock Road, the proposed two-storey construction may be acceptable, however, it is regrettable that the subject application has not been accompanied by a contextual elevation which clearly details the relationship between the proposed development and adjacent properties as regards ridge heights, floor levels etc.

7.5. **Traffic Implications:**

- 7.5.1. The proposed development site is located at a bend in Rock Road adjacent to its junction with two minor residential access roads (and a further entrance to a private dwelling house) and in this regard I am inclined to concur with the analysis of the previous reporting inspector in their assessment of ABP Ref. No. PL70.219276 that the existing junction arrangement lacks definition and that the traffic turning movements at this location are confused given the lack of road markings and signage. Accordingly, whilst I would accept that the surrounding road network has adequate capacity to accommodate the increased traffic volumes consequent on the proposed development, I would have reservations that the additional traffic turning movements at this deficient junction would interfere with the free flow of traffic along the main roadway and would contribute to congestion on an already busy road. In addition, it is my opinion that the potential for conflicting traffic movements at this location is likely to be further exacerbated by the proximity of the car parking access to the existing junction and the limited turning space available on site which would create difficulties as regards manoeuvrability thereby potentially resulting in vehicles having to reverse into the carriageway.

- 7.5.2. With regard to car parking, whilst the proposed development includes for the provision of a total of 4 No. on-site car parking spaces (i.e. 1 No. space per dwelling house), concerns have been raised that this will be insufficient and that the proposal will give rise to instances of haphazard on-street car parking along the laneway to the immediate east of the application site thereby reducing the available carriageway width and obstructing access for other road users, including the residents of neighbouring housing. In this respect it is of further relevance to note that the restricted width of the existing laneway will not permit two cars to pass side by side and, therefore, any on-street parking along same will likely interfere with access by larger vehicles such as refuse collection, deliveries, and emergency services.
- 7.5.3. Whilst the applicant has sought to emphasise the proximity of the proposed development to the town centre and nearby services in an effort to reduce any perceived reliance on the private car (and the associated need for car parking), I would advise the Board that the application site is not located within the 'town centre' as identified in the Mallow Town Development Plan and, therefore, the proposed development must adhere to the parking requirements set out in Table 15.3.1 of the Development Plan with regard to '*Standard 'B': Other Areas*'. In this respect it is regrettable that whilst specific parking requirements have been identified for three and four-bedroomed dwelling houses, no equivalent standard has been set for two-bedroom houses, although it is notable that 1 No. car parking space is to be provided per bedroom within a flat / apartment unit. On balance, whilst I am generally amenable to the provision of 4 No. parking spaces to serve the 4 No. two-bedroom dwelling houses, I would have some reservations as regards the absence of any overflow or visitor parking and the potential for same to give rise to instances of haphazard on-street parking in the area, particularly along the adjacent laneway and in the vicinity of the junction with Rock Road.
- 7.5.4. In relation to pedestrian safety, it should be noted that there are footpaths along both sides of Rock Road in the vicinity of the application site and that an existing footpath extends along the frontage of the site onto Rock Road although there are no footpaths on the adjoining lane. Notably, the subject proposal has sought to address previous concerns with regard to pedestrian safety by providing for a new footpath alongside the adjacent laneway which will serve to facilitate pedestrian movement along same. However, I would reiterate my previous concerns with regard to the lack

of definition at the existing junction as this serves to undermine pedestrian priority and safety at this location.

- 7.5.5. Further concerns have been raised by interested parties as regards the proposal to reposition the site boundary onto Rock Road and the potential for this to obstruct the sightlines available from the adjacent laneway onto the main carriageway, however, whilst I would acknowledge the legitimacy of these concerns, it is my opinion that adequate sightlines will continue to be available onto the main roadway, although these could be improved further by clearer definition of the junction layout.

7.6. **Appropriate Assessment:**

- 7.6.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.7. **Other Issues:**

7.7.1. **Encroachment / Interference with a Private Roadway / Right of Way:**

Concerns have been raised that the proposed development will encroach into the carriageway of the adjacent laneway thereby reducing the width of same (although the applicant has asserted that this is not the case and that all works will be undertaken within the confines of the application site) whilst it is also of relevance to note that the laneway in question over which access to the proposed development will be obtained would not appear to be a public road and is instead held in private ownership (*N.B.* The applicant has not provided any evidence of a right of way over the existing laneway to the application site nor has he demonstrated any entitlement to use same). With regard to the foregoing concerns, including the potential for the trespass of, or interference with, third party property consequent on the subject proposal, I am inclined to suggest that such issues would amount to civil matters for resolution between the parties concerned and thus I would draw the Board's attention to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

7.7.2. The Accuracy of the Submitted Drawings:

Concerns have been raised with regard to the accuracy of the submitted drawings and in this respect I would accept that there are inconsistencies between the site layout plan, the floor plans, and the elevational drawings as regards the representation of House Nos. 1 & 4 (*N.B.* Whilst it would appear that each of the proposed dwelling houses is of an identical design with a stated floor area of 83.48m², it should be noted that House No. 1, as coloured red on the submitted drawings, is actually wider than the remaining units and thus will have a proportionately greater floor area. The submitted drawings do not accurately reflect the foregoing and the rear elevational drawing does not correspond with the submitted floor plans). However, I am inclined to suggest that these discrepancies could be regularised by way of condition in the event of a grant of permission.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to the restricted nature and prominent location of this corner site and the established pattern of development in the surrounding area, it is considered that the proposed development by reason of its scale, form, design, and relationship with adjoining properties and the surrounding area, would be out of character with the pattern of development in the vicinity and would constitute a visually discordant feature within the streetscape. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of the traffic movements likely to be generated by the proposed development and the deficiencies in the adjoining road network, in particular, the adjoining laneway and its junction with Rock Road would create a traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

29th December, 2017