



An
Bord
Pleanála

Inspector's Report ABP 300185-17

Development	Six Townhouses in two blocks, upgrade to entrance, new shared access road, footpath, relocation of existing detached house entrance to north onto existing road, new boundary wall, parking, private open space and associated site development works.
Location	Sunday's Well Road, Mullingar, Co. Westmeath.
Planning Authority.	Westmeath County Council.
P. A. Reg. Ref.	17/6063
Applicant	Helen Mac Evilly
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Residents of Sunday's Well Road, Mullingar.
Observer	Aidan and Maeve Kilgannon.
Date of Site Inspection	27 th February, 2018.
Inspector	Jane Dennehy.

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1.0 Site Location and Description

1.1. The site of the proposed development has a total stated area of 1,800 square metres and it is formed from a rear garden of a two storey detached dwelling with frontage onto Sunday's Well Road which is within an established residential area on the east side of Mullingar. To the west are two semi-detached houses and the junction with Lynn Road and Mount Street. To the north there are two storey, detached and semi-detached houses with frontage onto Sundays Well Road, to the east are two storey terraced houses. Newlands Estate, a residential development is located to the south of the appeal site. Mature tree and hedge planting is located along the boundaries. Sunday's Well Road falls from east to west and there is parallel public on street parking on both sides of the road.

2.0 The rear private open space for the dwelling is subdivided by a high coniferous hedgerow through which there is an opening. The space on the south side of the other side is rectangular in shape, is not landscaped and is under grass and is enclosed primarily by coniferous hedgerow. The area on the inner side of the subdividing hedge is laid out as a small rear garden serving the original dwelling the main entrance to which is on the west elevation. There is access from front to rear on the inner side of the west side boundary. There is a front curtilage for the existing house and a vehicular access on the Sundays Well Road frontage.

2.1. Proposed Development

2.2. The application lodged with the planning authority was supplemented by additional information and clarification of additional information submissions, lodged on 27th July 2017 and 2nd September, 2017 in response to requests from the planning authority. It indicates proposals for a development of six dwelling units, (one four bed, four three bed units and one, two bed units) within two three-unit blocks with a central courtyard and private open space for each unit at the rear. Vehicular access is via the route of the original entrance to and along the west side of the existing house with eight communal group carparking spaces immediately adjacent to the

boundary with the private open space area to be retained at the rear of the original dwelling.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By order dated, 17th October, 2017, the planning authority decided to grant permission for the proposed development the conditions attached to which are generally of a standard nature and include a requirement for compliance submissions on details of the proposed site entrance on the L2010 and the junction with the L1136 and the materials and finishes under Condition No 9.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The planning officer further to issue of requests for additional information and clarification of additional information regarding entrance arrangements, carparking provision on site and an exemption certificate issued under Section 97 of the Planning and Development Act 2000 as amended regarding Part V requirements indicated satisfaction with the proposed development.

Other Technical Reports

- 3.2.2. The reports of the Area Roads Engineer indicate the arrangements for visibility for pedestrian and vehicular traffic at the entrance is substandard and that relocation of existing entrances is necessary to facilitate adequate splays. Also recommended as essential, is omission of on street parking facilities near the entrance to ensure visibility and provision of a public footpath of 1.8 metre in width and carriageway width to 5.5 metres in width in accordance with DMURs Standards instead of the 4.8 metres indicated. The total parking provision of eight spaces is stated to be consistent with county development plan standards and satisfactory. A request for additional information was recommended.
- 3.2.3. The Supplementary report of the Senior Engineer on the proposed modifications to the original proposal indicated in further information submission sought further

clarification with rear to the pedestrian driver visibility splays at the junction of the access road on a layout drawing to show consistence with *Design annual for Urban Road and Streets* (DMURS) standards.

- 3.2.4. The final report of the senior engineer of 4th December, 2017 indicates satisfaction with the details indicated in the final submission of the applicant. It shows proposals for a revised entrance two metre from the boundary wall providing for visibility at DMRSs standards in table 4.2 and a two metres' wide pedestrian area with tactile paving and a reduction in the corner radii at the proposed entrance to three metres increasing pedestrian and cyclist conditions, as the speed vehicles at the entrance is lowered along with a warning sign near the entrance. An additional recommendation is for attachment of a condition for a financial contribution of 12,000 euro towards the cost of provision of three car spaces because three on street car spaces are to be removed from Sunday's Well Road.
- 3.2.5. The final report of the senior engineer of 4th December, 2017 indicates satisfaction with the proposed surface water and foul water drain age arrangements subject to standard conditions subject to conditions.

The reports of Irish Water indicate no objection subject to conditions.

3.3. **Third Party Observations**

- 3.3.1. Observer submissions lodged by the Appellant and four other parties indicates objections to the proposed development on ground of overdevelopment and excessive density, inappropriate and substandard layout and design standards, substandard entrance arrangements and on-site parking provision traffic congestion and hazard and loss of existing trees and hedgerows.

4.0 **Planning History**

- 4.1. There is no record of planning history for the site other than two prior applications which were withdrawn, (in the early 1980s) prior to determination of a decision.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative development plan, the Mullingar Local Area Plan 2014-2020.

The site is subject to the zoning objective “Existing Residential” and is within the “*Millmount/Sunday’s Well Character Area*”. There are several policy objectives for residential development set out within the development plan which include encouragement of sustainable development on underutilised and brown field sites close to the town centre.

According to section 2.9 the planning authority seeks to encourage sustainable high quality residential neighbourhoods with efficient use of land, good permeability, amenities, linkages mixed house types and good design. Various criteria for new housing development are provided. Urban design principles are set out in Table 2.5.

Increased densities are supported, in line with the recommendations in *Sustainable Development in Urban Areas: Guidelines for Planning Authorities*, 2009.

5.1.2. The operative county development plan is the Westmeath County Development Plan, 2014-2020.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Sean Lucy and Associates on behalf of the Appellant on 10th November 2017. According to the appeal, permission should be refused for four reasons, as outlined below.

- The proposed development is back land development on a small site at rear of a long established private dwelling house and driveway in an established residential area.
- The proposed density is 49 units per hectare and is excessive. The proposed layout meets minimum standards as opposed to high quality.

Distances to boundaries and to Sunday's Well Road are minimal and are imposing on the existing properties. The depth of the rear garden of the existing house is reduced from 13.5 to six metres as far as the proposed parking and, the reduced size of the remaining garden is unacceptable. Development that has taken place in the area which is part of the town's historic street layout were on adequately sized sites with good access arrangements.

- The zoning objective is for improvement to the quality of residential areas and their amenities but the high-density development proposal will not serve to achieve this objective for the development itself or for the existing house and gardens.
- Carparking will end up on the shared courtyard area and part of the remaining garden will be needed for the eight car spaces identified.
- The proposed development will give rise to traffic hazard.
 - The entrance is forty-five metres from the junction with Lynn Road/Mount Street where a three-line carriageway, which is eight metres wide to facilitate left turning movements has been created. Sunday's Well Road is a major distributor road at the east side of the town where there is significant traffic building up.
 - Turning movements, some involving crossing two lanes to access/egress the entrance will increase to as many as sixty-four per day from up to eight per day at peak times and this will significantly increase traffic hazard. There will be traffic conflicts at the narrow entrance gateway and within the site between vehicles parked for the house and for the back-land area and between pedestrians and vehicles due to the narrow width of the access lane. A junction should be created instead of increased use of an entrance to a single house.
 - The new junction associated with the new County Hall of a staggered junction across the Lynn Road is problematic due to traffic building up and impact on turning movements at the new junction. This problem will be exacerbated by the proposed development

- Carparking Arrangements are deficient.
 - Access to carparking is not shown at development plan standards. The proposed development and existing dwelling would have a minimum of sixteen cars in total. Unauthorised parking in the courtyard area which is designated as open space and it would be compromised would occur and there is no option for on street parking. It is noted that Mullingar has limited public transport and is a commuter/dormitory town for Dublin so there is heavy reliance on private car use.
- Overlooking and adverse impact on amenities of existing residential development which is contrary to improvement of and protection of residential areas provide for in the development plan will occur.
 - The existing undeveloped site is ‘a green lung’ for the area. Existing dwellings have lost amenity standards over the years due to increased traffic to the front so the standards of amenities of the rear gardens are increasingly important. The proposed development of houses 8.2 metres high with 9.3 metres long gables immediately at the rear will create sense of enclosure and overlooking of these gardens from front windows destroying the privacy that is enjoyed. The separation distance from the front windows to the rear boundaries of the Sundays Well Road houses is 25-27 metres. Two gardens will be completely exposed to upper floor windows.

6.2. Applicant Response

6.2.1. A submission was received from Geraldine Fahy on behalf of the applicant on 11th December, 2017. The appeal includes a detailed outline and discussion the planning background and context, particularly regarding the application of the provisions of the Mullingar Local Area Plan 2013-2020. (LAP) In this regard it is submitted that:

- The appeal site location is consistent with the provisions of section 2.9 of the LAP for sustainable residential development. It is a small, high quality infill residential development which is simple in design and is close to the town centre and amenities and facilities.

- There is adequate infrastructure; on a pedestrian route to the town centre and public open space facilities at the Town Park.
- There is compatibility with adjoining development and the character of development in the area. The proposed development of a small development in a residential enclave accords with the principles of urban design provide for in Table 2.5 and policies for residential layout and design in section 2.14.
- and the policies and objective for which are set out in section 4.7.4 and 4.8 of the LAP due to the setback and compatibility with the area while ensuring protection of residential amenities and existing standards.
- The proposed development is appropriate for the Millmount Sunday's Well Character Area.

6.2.2. With regard to the contention that the proposal is substandard back land development in an established residential area it is submitted that:

- The LAP supports back land development (Table 2.6) It is an infill and inner suburban site. The density (34 units per hectare) is appropriate although slightly under the recommended density of 35 to 40 per hectare for the location. It is in line with standards in Table 2.6 of the LAP. The removal, for calculation purposes of the access road and open space is inappropriate. Open space at 508 square metres is 38 % of the site area whereas a minimum of 15 percent is required, according to section 14.3.12 of the County Development Plan. The contention therefore as to overdevelopment is also rejected as it is well designed and appropriate to the urban back land site as an infill with the support of the county development plan and the LAP.
- An examination of the site layout shows that separation distances between gable ends and boundaries are 2 to 2.5 metres and ten metres to the rear boundary walls providing for separation distance of 22 metres to the gable of unit 4 and 23 metres from unit No 1 to neighbouring properties to the north. There is separation distance is twenty-six metres to houses to the east and west. The proposed development will not detract from residential amenities of established neighbouring development.

- The integrity of the existing dwelling is not compromised as it is remote due to trees and the site is too large for a maintained urban garden. The retained private open space (which is not designated green space) is 150 square metres and more than the 60-75 square metres require for a three to five-bedroom house according to the Westmeath county development plan.

6.2.3. With regard to the proposed entrance arrangements and traffic hazard:

- There is a sufficient distance to the junction with Lynn Road and Mount Street. Sightlines are adequate for the scale of the proposed development at the inner urban location and will be improved with the on-street parking removed.
- It is agreed that traffic volumes could be increased at peak times but the road can accept the small-scale increase without traffic hazard.
- Increased turning movements are not significant given the urban location having regard to with alignment and carrying capacity. The contention as to sixteen vehicles exiting the site at peak hours is an exaggeration, especially due to the proximity to the town centre and high pedestrian linkage. Increased car dependency would be created if uncontrolled outwards sprawl was allowed instead of the proposed infill. The Roads section raised concerns on access and egress which were fully resolved prior to the decision. The revisions improve visibility, include traffic calming and prioritise pedestrian movement with the shared surface and raised entrance.
- Little or no queuing occurs at peak as the road is a well function urban road with sufficient width and capacity to accept the additional traffic generation. There are no traffic issues at the junction with the entrance to the County Council building. Principles in DMURS encourages improvement to the public realm and prioritisation of pedestrian movement and the crossing facilitate access to town centre amenities.
- Carparking provision is appropriate and there is adequate parking at the front and east side of the existing dwelling to serve it. Anticipated demand for twelve spaces for the location is unreasonable given the proximity to the tow centre and provisions of DMURS, the county development plan and national planning framework promoting alternative to the private car. Landscaping measures can ensure that the courtyard is not used for ca parking. Many

people live and work in the town. It is not a dormitory town and it has a high quality rail service.

- The validity of the appeal is questioned because a “Care of” address is used. The names of the residents of Sunday’s Well Road are not clearly stated. It is not clear as to who is making the appeal and no chairperson or secretary is identified. It is not clear as to what residents are aware of the appeal.

6.3. Planning Authority Response

6.3.1. There is no submission from the planning authority on file.

6.4. Observations

6.4.1. A submission was received from Maeve and Aiden Kilgannon on 1 Auburn Vilas, Sundays Well Road on 5th December, 2017. According to the submission:

- The proposed development would exacerbate existing traffic congestion on the public road and hazardous conditions at the entrance, where visibility for existing residents is poor. Boundary walls could be damaged and noise pollution will occur.
- Construction and construction traffic will seriously affect amenity and safety standards at existing properties especially as the site is very confined.
- Overshadowing and overlooking of existing properties would occur.
- Lighting will affect the amenities of existing properties.
- The proposed development will lead to devaluation of existing properties.

7.0 Assessment

7.1. Validity of the Appeal.

7.1.1. In the response to the appeal the applicant’s agent queries the validity of the appeal pointing out the lack of clarity as to the identity of the Appellant Party due to lack of named individuals and office holders. These contentions appear reasonable. The Board may wish to take the opportunity to have these matters clarified to provide assurance as to the validity of the appeal prior to determination of a decision.

7.1.2. The issues central to the determination of the decision, having regard to the appeal and considered below are:

Substandard back land development and incompatibility with established residential development.

Traffic safety and convenience at the entrance

Onsite parking provision.

7.2. Substandard back land development and incompatibility with established residential development.

7.2.1. The application site, in the absence of access via the entrance and space to the side of the existing detached house and garden would be entirely landlocked. To this end, it is agreed that it is a back-land site. However, it is highly desirable and in the interests of sustainable development that it be developed given the inner urban location in the town and the availability of services and facilities. Development, subject to satisfactory planning and technical standards being achieved is to be encouraged.

7.2.2. It is a relatively large parcel of unused land subdivided from the main rear private open space are immediately at the rear of the main dwelling. It is considered that the retained area of private open space that is at present landscaped as a garden is sufficient in size and configuration, relative to the house and in privacy, by means of high coniferous hedgerows and new boundary planting to serve the existing dwelling having regard to development management standards.

7.2.3. In principle, a residential density of thirty-four square metres is appropriate for the mature inner urban location near the town centre services and facilities and concurs with recommendations in the statutory guidelines for residential development, *Sustainable Development in Urban Areas: Guidelines for Planning Authorities, 2009* and current development plan standards. It is increased with the area of the access driveway and on-site parking space excluded but would still concur with the recommended standard of 35 – 50 units per hectare.

7.2.4. Within the layout for the proposed development there is no objection to the positioning for each of the dwelling units and rear private open space, sufficient

separation distances within the development and from adjoining being achieved. It is appreciated that insertion of the development amounts a major change in the context of the immediate environs of some of the properties adjoining the site boundaries but satisfactory standards are achieved in the layout relative to existing adjoining development.

- 7.2.5. The layout of the scheme is problematic with regard to the central open space and the dedicated area for on sit parking with potential adverse impact with regard to the attainable standards of residential amenity. This matter is discussed further under subsection 7.14 below.

7.3. Traffic safety and convenience at the entrance.

- 7.3.1. It is agreed with the applicant and planning authority that the inner urban location that the trip generation having regard to turning movements at the entrance would be influenced by the location adjacent to the town centre and services and facilities. Trip generation is therefore likely to be far less than trip generation by a similar sized development at a location outside of at the edge of the town. Nevertheless, it might be reasonable to assume an average to two movements in and two out per dwelling resulting in a total of twenty-four or less than thirty trips, taking into account trip generation by the existing dwelling and consequential turning movements at the entrance per day, some of which can be expected to occur during peak hours. It is not accepted that significant obstruction or delay to traffic flows would occur as a result or that Sundays Well Road and the junction at Lynn/Mount Street a short distance to the west would occur with the development in full occupation.

- 7.3.2. The proposals for the alterations to the entrance and access internal road layout shown in the final submission to the planning authority on 2nd September, 2018 indicate sufficient sightlines at the entrance in both directions, subject to removal of on street public on street parallel parking facilities. The widened entrance, shared surface and selection of material and finishes are acceptable both in terms of attainable technical standards and the visual and residential amenities of the area. There is no objection to the proposed alterations providing for new steps at the front of existing dwelling to an extended porch area at the entrance on the west side of the house which will overlook the access road.

7.4. Onsite parking provision.

7.4.1. While the quantum of on-site parking provision is considered adequate to serve the proposed development, taking into account the removal of existing parallel on-street spaces at the site frontage required to facilitate the proposed entrance arrangements the proposed site layout in this regard gives rise to concern. It is fully agreed with the appellant that it is unrealistic to anticipate that parking in front of the dwellings, on the courtyard/designated communal open space at the centre of the site would occur although as submitted by the appellant's agent, there is scope for landscaping works to be implemented to preclude all scope for parking to take place in this area. It is not considered sufficient for such landscaping to be addressed by condition given that it's functionality and effectiveness as a measure to prevent parking within the courtyard space should be demonstrated. The on-site parking has a poor relationship to the dwellings in terms of convenience in this regard and is more suited to visitor parking.

7.4.2. In the event of possible favourable consideration of the proposed development it would be recommended that by way of section 132 notification, the application be provided with an opportunity to demonstrate either (1) landscaping proposals to demonstrate how parking on the courtyard/communal space area is to be prevented or, (2), a revised layout that allows for access and parking to the front of the dwellings or an alternative grouped layout along with a satisfactory standard of communal open space provision, both in quality and quantity. It is considered that modified arrangement is likely to be feasible and could be submitted for consideration. Therefore, refusal of permission in is not recommended in that a modified proposal to the end, would be consistent with the interests of sustainable development and consolidation of existing serviced areas within existing settlements.

7.5. **Appropriate Assessment.**

- 7.5.1. Having regard to and to the nature of the proposed development and to the serviced inner urban location, no Appropriate Assessment issues proposed development would not 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. It can be concluded that, as discussed in the foregoing assessment, subject, as recommended, to the availability of satisfactory modifications to the layout with regard to on site carparking and communal open space provision, the proposed development is satisfactory. Draft Reasons and Considerations and Conditions are set out below.

9.0 Reasons and Considerations

Having regard to zoning objective for the area, the unused surplus nature of the site lands and, the location close to the town centre in an established inner urban residential area, it is considered that subject to the conditions set out below, the proposed development would satisfactorily integrate in the established pattern and character of the existing development in the area, would not seriously injure the residential amenities of adjoining properties or the amenities of the area, would not endanger public safety by reason of traffic hazard or obstruct or interfere with the convenience of other road users and would 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 lodged with the application as amended by the further plans and particulars and by the plans and received by the planning authority on, 27th July, 2017 and 20th September 2017 except as may otherwise be required 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.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and primary care centre shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colours shall be in blue-black or slate grey in colour only.

Reason: In the interest of visual amenity.

4. The public open space shown on the lodged plans shall be levelled, contoured, soiled, seeded, and landscaped in accordance with a landscaping scheme to be submitted and agreed writing with the planning authority. The scheme shall be implemented prior to occupation of the dwellings and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: To ensure the satisfactory completion of the public open space within the development.

5. Details of hard and soft landscaping within the perimeter of the site including all materials and finishes shall be submitted to and agreed with the planning authority prior to the commencement of the development.

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

6. Boundary treatment shall be in accordance with the plans and particulars shown on Drawing 1561_299_200- Rev D2 lodged with the planning authority on 20th September, 2017 and shall include provision for a two metre high wall on the northern boundary for Unit and a two metre high capped block wall between the dwellings.

Reason: In the interests of residential and visual amenity.

7. The internal shared surface circulation routes, parking spaces and footpaths and kerbs shall be fully completed prior to the occupation of the residential units. These works shall be in accordance with the standards set out in the Design Manual for Urban Roads and Streets (2013).

Reason: In the interest of vehicular and pedestrian safety and convenience and the amenities of the development

8. All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

9. Water supply and 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.

10. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of the residential amenities of the area.

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance

with the “*Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects*”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interests of sustainable waste management.

- 12 A plan containing details for the management of waste including separation of recyclable materials within the development, facilities for the storage and arrangements for collection shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

- 15 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in

connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

- 16 The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in 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. The contribution shall be in respect of the retail unit only and shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Jane Dennehy
Senior Planning Inspector
4th March, 2018.