



An
Bord
Pleanála

Inspector's Report ABP-302029-18

Development	Construct two semi-detached three-bedroom dwellings behind an existing end of terrace house and all associated site works.
Location	14 Mellow Terrace, Academy Street, Navan, Co. Meath.
Planning Authority	Meath Co. Council
Planning Authority Reg. Ref.	NA/171248
Applicant	Mr Eamonn Sheridan.
Type of Application	Full Planning Permission.
Planning Authority Decision	Refuse planning permission.
Type of Appeal	First party against refusal.
Appellant(s)	Click here to enter text.
Observer(s)	Residents of Mellow Terrace and Academy Street.
Date of Site Inspection	17 December 2018.
Inspector	Padraic Thornton.

1.0 Site Location and Description

- 1.1. The site is located in the southern suburbs of Navan town a short distance from the town centre. It is close to the Boyne River and to the former main entrance to the town centre from the Dublin direction. The area is generally a residential one but there are also commercial uses in the vicinity. The commercial uses include an agricultural provisions depot in the site immediately to the south-east of the lane which runs along the south-east side of the site and a garage business a short distance further to the south-east. Properties to the north-west and on the opposite side of the road are generally in residential use.
- 1.2. The site of the proposed development was part of the original curtilage of number 14 Mellow Terrace. (Mellow Terrace is a terrace of houses which fronts onto Academy Street). A wall about 1.7 metres high has been constructed at the north-east end of the site separating the site from the smaller curtilage now attached to number 14, which is an end of terrace house fronting Academy Street. There is a laneway to the south-east and south-west (rear) sides of the site. The site abuts the curtilage of number 13 Mellow Terrace to the north-west. There is a timber screen fence at the boundary of the site and number 13. There is a low wall at the rear of the site and also at the side of the lane to the south-east. The latter wall is partly a retaining wall as the site is in some parts slightly higher than the side lane. The southern corner of the site, at the junction of the side and rear lanes, is open with no wall or fencing. The site is currently unused and a sign to the front indicates that number 14 Mellow Terrace is for sale.
- 1.3. The lane at the side of the site is of varying width being somewhat wider near the junction with Academy Street. It is approximately 4.8 Metres wide to the front and about 3.8 metres to the rear. The ground level of the lane is higher to the rear than to the front. The rear lane which serves the rear gardens of the houses on Academy Street is slightly over 4 metres in width. Carparking for the houses in the nearest terrace, in Mellow Terrace, is in the rear gardens and not to the front of the houses. Number 14 is at a level slightly above (about 1 metre) the level of Academy Street. There is no parking space in the current curtilage of the house. Car parking on the street frontage on Academy Street is restricted by a 2 hour pay and display system Monday to Saturday.

2.0 Proposed Development

- 2.1. The proposal is to construct 2 two-storey houses on the site. The houses would front onto the lane to the south-east and back onto the curtilage of number 13 Mellow Terrace. 3 car parking spaces are proposed to the front of the houses and parallel with the lane to the south-east. The car parking spaces are indicated to measure 6 metres long and 2.4 metres wide. The original plans submitted had indicated 4 car parking spaces. No measurements were indicated but the spaces, then proposed, scale at about 4.5 metres long.
- 2.2. The proposed houses would be three-bedroom houses with each house having a floor area of 124.9 sq. metres. The finished ground floor level of the houses would be about a metre above the finished ground floor level of number 14 Mellow Terrace. The ridge height would be about 1.5 metres above that of number 14 Mellow Terrace. The original plans indicated hipped roofs on the rear extensions of the houses. Revised plans submitted on 3 May 2018 indicate flat roofs on the rear extensions of the houses. The main ridge line is indicated to be reduced by 0.7 metres.
- 2.3. The plans indicate that the rear extensions to the houses would be 7.075 and 4.765 metres from the boundary with the curtilage of number 13 Mellow Terrace located to the north-west of the proposed building at the furthest point of the extensions from the site boundary. Distances from the closest points are not indicated. They scale at about 4.5 and 2.5 metres at the nearest points on the engineering drawings and about 5 and 3 metres on the architectural drawings.
- 2.4. The revised plans submitted on 3 May included shadow analyses for the location with and without the proposed development for various dates and times including 21 March, 21 June and 21 December.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse planning permission for 2 reasons.

The first reason for the refusal is that adequate parking and sight lines are not provided for, and that the development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. The development would accordingly be contrary to the proper planning and development of the area.

The second reason for refusal is that the development, by reason of its height, massing and design would be visually obtrusive in the area. The development would impact negatively on the residential amenities and depreciate the value of adjacent properties. The development would be out of character with the pattern of development in the area and would be seriously injure the amenities of the area. It would accordingly be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The original planning report sought further information. This was sought as the planner raised concerns about the impact of the development on the visual and residential amenities of the area. It was suggested that a one or two single storey dwellings might be more acceptable and a detailed shadow analysis was requested for any two-storey development. Details of all boundary treatments were also requested.

In his initial assessment the planner considered that the 2 dwellings proposed were not acceptable, in the then layout and design, and he suggested that the proposal should be re-designed completely. He referred in particular to the impact on the amenities of houses 13 and 14 Mellow Terrace.

In his subsequent report the planner stated that the shadow analysis submitted with the further information did not consider the elevations and the impact on ground floor windows of the adjacent properties. He considered that impact on adjacent properties could not be ruled out. He concluded that concerns remained in relation to the visual impact of the development and the impact on the residential amenities of the adjacent properties. He also noted that the Transportation Department had considered that the sight lines were incorrectly shown and that the development did

not comply with development plan standards in relation to car parking. He recommended that planning permission be refused

3.2.2. Other Technical Reports:

The initial report from the Roads Design Office stated that the proposed development indicated works outside the blue line boundary and that the parking bays were not dimensioned but did not appear to comply with DMURS. It also stated that the Navan Development Plan indicated a pedestrian access/amenity walkway along the lane off which access was proposed. Further information was requested including information on sight lines from the rear lane.

Following receipt of further information, a report from the Transportation Department stated that the sight lines were incorrectly shown as they were not to the near edge of the road and car parking in accordance with the development plan was not being provided. The applicant had also not demonstrated how the development could be serviced by refuse vehicles and the proposed shared surface area was not all within the blue line area. Refusal was recommended due to the lack of sight lines and car parking.

The initial report from Irish Water stated inadequate information had been submitted. Further information in relation to connections was sought by the planning authority. The planning report indicates that Irish Water has stated that it had now no objection to the proposal

A report from the water services section of the local authority stated that the development broadly complied with the requirements of the local authority. Conditions were recommended in the event of permission being granted.

4.0 Planning History

There have been a number of previous applications for the development of the site including 2 previous appeals. An Bord Pleanála files ref, numbers PL 32.217419 and PL 32. 230698 refer. It is noted that in both of the cases referred to the decision of the planning authority was to grant planning permission.

Case Ref. NT/3007 was an application for four apartments in the rear garden of number 14 Mellow Terrace. Planning permission was refused in May 2003 for reasons including overdevelopment and overshadowing and overlooking of neighbouring properties.

Case Ref. NO/30046 was an application for a two-bedroom semi-detached house at the side of number 14 Mellow Terrace. Planning permission was granted subject to conditions including the provision of two car parking spaces to the rear. That permission has not been implemented and is now expired.

Case Ref. NT/40053 was an application for 6 town houses and planning permission was refused in November 2004. Reasons included overdevelopment, overlooking, overshadowing, inadequate amenity space, inadequate parking, substandard turning area and the development was considered to be out of character with existing development in the area.

Case Ref NT/50029 (Board Ref. PL 32.217419) This was an application for 4 townhouses (reduced from original proposal for 5) in the rear garden and a side extension to number 14 Mellow Terrace. It was refused permission on appeal. Reasons for refusal included unsuitable height and bulk of building, out of character in area, inadequate open space and car parking and overdevelopment.

Case Ref. NA/80001 (An Bord Pleanála Ref. PL 32.230698). This was an application for three two-bedroom two-storey houses in the rear garden of number 14 Mellow Terrace. Planning permission refused on appeal for reasons including visual intrusiveness in an area characterised by modest single and two storey houses, out of character with the pattern of development in the area and injury to the amenities of

the area. It was also considered that the development did not provide for adequate car parking and that it would result in on street parking and cause serious traffic congestion on the narrow laneway.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the Meath County Development Plan 2013-2019 which states that the Navan Development Plan 2009-2015 remains in force for development in the Navan area.

The site is zoned A1 i.e. Existing Residential in the Navan Development Plan. The objective for such areas is to protect and enhance the amenity of developed residential communities.

It is stated in the plan that in A1 zones, Meath County Council will be primarily concerned with the protection of the amenities of established residents. While infill or redevelopment proposals would be acceptable in principle, careful consideration would have to be given to protecting amenities such as privacy, daylight/sunlight and aspect in new proposals.

There is an objective in the development plan to provide a pedestrian walkway along the lane at the south-east edge of the site. This is the laneway along which the 3 car parking spaces would be located. The development plan indicates this pedestrian walkway linking Academy Street with existing and proposed residential areas to the south-west and to a Rail Route Reservation Corridor.

The County Meath Development Plan specifies that the provision of 60 sq. metres of private open space is required for a three-bedroom house. The county development plan also requires two car parking spaces for each residential unit.

5.2. **Natural Heritage Designations**

The site is located close to the River Boyne and River Blackwater designated SAC and SPA. The development would be located about 70 metres from the River Boyne.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The appellant's planning consultant submits that the current proposal takes account of the previous refusal decisions by modifications reducing the number of units proposed, reducing the height of the proposed dwellings and improving the car parking provision in terms of quantity and quality.

It is submitted that three off-street parking spaces are being provided whereas previous proposals only provided one space per unit. Traffic speed on the lane is extremely low and the lane is a shared surface, where traffic for a small number of houses mix with pedestrian movements. The width of the lane varies from 3.6 to 4.9 metres. It is submitted that this is appropriate to serve the existing and proposed residential development. Reference is made to the response to the request for further information pointing out that the spaces at 6 metres long by 2.4 metres wide comply with the Design Manual for Urban Roads and Streets. It is also submitted that the sight lines would be sufficient for a low speed laneway and that there would be adequate turning space. It is not accepted that the sight lines were incorrectly shown as the lane to the rear is of adequate width for only one car and the boundary wall can be sufficiently low not to interfere with sight lines. Bins can be taken down to Academy Street for collection, if necessary. It is submitted that the development makes part of the site curtilage available for use by third parties as part of the shared surface.

The appellant's agent points out that the ridge height of the houses has been reduced from 8.55, proposed in the last application refused by An Bord Pleanála, to 7.13 metres in the response to the request for further information. This would be 0.8 metres above the ridge height of number 14 Mellow Terrace but 0.0.86 metres below the ridge height of the house to the rear (No. 178B Woodlands).

The appellant's agent does not understand the planning authority's argument that the development would be visually obtrusive due to its bulk, massing and design. The houses proposed are modest two-storey houses in an area where such houses exist. The design responds to the rising ground level and is significantly reduced in bulk and massing in comparison to previous proposals.

The appellant's agent submits that the planning authority has not substantiated its argument that the development would impact negatively on the residential amenities and value of adjacent properties. No overlooking would arise and the further information indicated that overshadowing would be minimal. Reference is made to the previous inspector's conclusion that the previous development with a higher ridge height would not cause such overshadowing as to warrant a refusal of planning permission.

It is submitted that the proposed development is in accordance with the zoning objective for the area. In order to achieve more new dwellings in towns and cities in accordance with national policy it will be necessary to consider proposals in more qualitative terms. The development proposed in this case would not have a serious impact on residential amenity or result in traffic hazard or congestion. The modest infill development proposed would provide much needed accommodation and would fit within the visual amenity and character of the area. The development complies with the Objective 13 of the National Planning Framework which requires that in urban areas planning and related standards, including building height and

car parking, will be based on performance criteria which seek to achieve well designed, high quality outcomes to achieve targeted growth.

6.2. Planning Authority Response

The planning authority in its response repeats the comments of its transportation section on the further information submitted by the appellant. It also repeats the planner's reservations in relation to the shadow analysis submitted by the applicant. The authority states that the applicant has not responded adequately to the request for further information and refers to its concerns in relation to the development as stated in its decision to refuse permission.

6.3. Observations

An observation, on the appeal, signed by a number of residents of Mellow Terrace and Academy Road was submitted to the Board. The observation outlines the observers' strong objections to the proposed development. The objections are based on injury to visual and residential amenity and that the development would be out of character with existing development in the area. Reference is made to the Board's decision on case reference PL 32.230698 and it is submitted that the development ignores the substantial issues raised by the planning authority.

7.0 Assessment

7.1. I accept the appellant's contention that national policy supports additional residential development and higher densities of development in built up areas. This is clear from both the National Planning Framework referred to by the appellant's agent and the recently published Guidelines for Planning Authorities on Urban Development and Residential Densities (Guidelines published on 7 December 2018). I am not convinced, however, that in this case the development achieves the well-designed, high quality outcome referred to in Policy Objective 13 quoted by the appellant's agent in the grounds of appeal.

- 7.2. I accept that in town centre locations 3 car parking spaces may be adequate for a two residential unit development. The situation here, however, is different in that the site occupies a critical location in terms of access to the parking spaces for most of the houses on the Academy Street frontage. These spaces are accessed through the side and rear lane. It is critical that the lane is not congested at the site frontage and at the junction of the rear and side lanes. The development of the former rear garden of number 14 Mellow Terrace also leaves that property with no off-street parking and no provision has been made to provide for such. The outcome is accordingly the provision of 3 spaces for 3 houses. As parking on the street frontage is by pay and display it is inevitable that there will be increased pressure for parking on the lane. Having regard to the width of the lane and the restricted sight distances which would pertain at the inner bend if the development is carried out, I consider that the proposed development would endanger public safety by reason of traffic hazard and road obstruction as stated in the planning authority's first reason for refusal. Such road obstruction would cause inconvenience for local residents accessing the rear gardens of their houses.
- 7.3. The development would be located to the south south-west of the houses in Mellow Terrace and to the south-east of the rear garden of number 13 Mellow Terrace. (I noted on inspection that there is a flat roofed structure which appears to be in residential use located to the rear of the garden of this property at the lane frontage). At the closest point the parapet of the flat roofed two-storey rear projection of proposed unit number 2 would be only about 3 metres (if not less) from the boundary with the rear garden of number 13. The house proposed would also be only about 4 metres from the rear of the existing house at 14 Mellow Terrace. I consider that due to the distances and orientation involved there would be significant overshadowing of the rear gardens of the properties in question. Whilst the shadow analysis submitted is difficult to interpret, due to the shading tones which are used, I consider that the overshadowing referred to can be seen in the rear garden of Number 13 in the analysis for 21 March at 09:00 and in the rear garden area remaining to Number 14 in the analysis for 21 March and 21 June at 12:00 and 15:00.
- 7.4. I accept that due to the absence of first floor windows on the rear and north facing elevations, apart from bathroom windows, overlooking would not be a serious problem, although the rear bathroom window in the flat roofed section of unit 2 would

give an impression of overlooking and could result in same, when open, unless the opening mechanism is controlled.

- 7.5. The proposed unit number 2 would have a top parapet height of about 6 metres and it would be located in very close proximity to the gardens of both Numbers 13 and 14 Mellow Terrace. Such a flat roofed 2-storey extension would be out of character in the area and I consider that the building would be visually obtrusive when seen from the rear gardens of the properties in question. I consider that this latter concern also applied to the building as originally proposed i.e. prior to the revision to finish the rear projection with a flat roof.
- 7.6. The appellant's agent refers to the inspector's conclusion in relation to the overshadowing issue in case reference Pl. 32. 230698. The section of the report on which the agent relies indicates that the building then proposed would have been 7.488 metres from the rear garden of Number 13. This is not the case with the current proposal where the building would be much closer to the garden of number 13. The agent also refers to the reduced height of the proposed building in comparison to the previous proposal. The inspector referred to an eaves level of 6 metres. The current plans however indicate the top of the parapet to the rear extension being about 6 metres. I also consider it desirable to protect the amenities of the house at Number 14 Mellow Terrace although that property and the appeal site were once in the same ownership and may still be so. In the circumstances I do not consider that the inspector's statement in her report on the previous appeal supports the appellant's submissions in this case.
- 7.7. The zoning objective for the area as set out in the development plan is to protect or enhance the amenities of existing residential properties. The plan states that in A1 zoned areas the planning authority will be primarily concerned with protecting the amenities of established residents. I consider that the development proposed would be damaging to the amenities of existing properties and so would be in conflict with the zoning objective.

Environmental Impact Assessment

- 7.8. It is debatable if the small-scale development proposed in this case falls within any of the classes of development set out in Annex I or Annex II of the EU EIA Directive. The project might be considered to be an urban development project falling within

Class 10 (b) of Annex II. Having regard to the scale of the project, its location within a built-up area and to the characteristics of any potential impact on the environment, I do not consider that the development is likely to have any significant effects on the environment. An environmental impact assessment is accordingly not necessary if the Board decides to grant planning permission.

Appropriate Assessment

- 7.9. The nearest designated European Natura Site to the proposed development is the Boyne and Blackwater SAC and SPA. The River Boyne is about 70 metres away to the east. The intervening area is built up and piped water and drainage facilities are available to serve the proposed development. Having regard to the small scale of the proposed development and to the absence of any direct pathway between the development and the designated site I consider that the development individually or in combination with other projects would not be likely to have any significant effect on the SAC or SPA in question. A second stage Appropriate Assessment as referred to in Article 6(3) of the EU Habitats Directive is, accordingly, not required in this case.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the reasons and considerations set out in section 9 of this report.

9.0 Reasons and Considerations

- 1 Having regard to the location of the site relative to existing residential properties to the north and north east and to the height, bulk and massing of the proposed building it is considered that the development would detract from the amenities of residential properties in the vicinity by reason of overshadowing and visual obtrusiveness. Due to its impact on residential amenities the development would depreciate the value of properties in the vicinity. It is also considered that the development would be in conflict with the zoning objective to protect and enhance the amenity of developed residential communities set out in the current Navan Development Plan. The

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

- 2 Having regard to the width and alignment of the lane off which access is proposed and to the carparking proposed it is considered that the development would give rise to traffic hazard and obstruction for users of the lane. The proposed development would accordingly be contrary to the proper planning and development of the area.

Padraic Thornton

Planning Inspector
13 January 2019