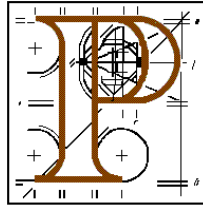


An Bord Pleanála



Inspector's Report

PL17.245994

DEVELOPMENT:

Permission for construction of 11 no. 2-storey semi-detached 3-bedroom houses (with optional ground floor rear annex and optional attic conversion) and 3 no. 2-storey semi-detached 4-bedroom houses (with optional attic conversion) and all associated site works at Millbourne – Southern-most point of Millbourne Avenue, south of Millbourne Drive (Planning Ref. DA13/0728), Millbourne, Ashbourne, County Meath.

PLANNING APPLICATION

Planning Authority:	Meath County Council
Planning Authority Reg. No.:	AA/151074
Applicant:	Rybo Partnership
Application Type:	Permission
Planning Authority Decision:	REFUSE PERMISSION for Reasons and Considerations (3)

APPEAL

Appellant:	Rybo Partnership
Type of Appeal:	FIRST PARTY
Observer:	Millbourne Residents Association
DATE OF SITE INSPECTION:	10 th March 2016
INSPECTOR:	Dermot Kelly

1. SITE LOCATION

The subject site lands at Millbourne, Ashbourne are located within a new suburban residential area to the north-west of the town centre of Ashbourne in County Meath, as indicated on **APPENDIX A - LOCATION MAP**.

2. SITE DESCRIPTION

2.1 The subject site lands at Millbourne, Ashbourne, County Meath are approximately 0.5 hectares in area and were described in the Planning Report for the Planning Authority as follows:

‘The application site is located to the south of the Millbourne residential development, to the north-west of Ashbourne town centre. The Millbourne development is accessed from the R135 via a number of other residential estates including St. John’s Wood and Brindley Park. The Millbourne development consists of a mix of house types including apartments, two storey and three storey houses with a mix of brick and plaster finishes.

The application site is presently laid out as a grassed area. The units to the west of the access road have been completed. Construction is ongoing on the development permitted to the east of the access road and on the lands further north of the site. The lands to the immediate north have been developed with two-storey houses. A drainage ditch is present to the south of the site with vegetation growing alongside the ditch. A fence is in place to the south of the site with vegetation growing alongside the ditch. A fence is in place along the southern site boundary. No other boundaries are in place.

Construction work is on-going on the lands to the south of the application site. Permission was granted for an educational campus on these lands (Reg. Ref. AA/140734).’

2.2 The submitted First Party Appeal Grounds included stating as follows:

‘The subject site is situated c.850 metres to the centre of the town of Ashbourne in County Meath. Ashbourne is situated close to the Meath-Dublin county boundary on the M2 Motorway, 23 kilometres from Dublin City Centre.

The subject site itself is a c.1.2 acre undeveloped site to the south-east of the newly constructed ‘Millbourne’ housing development.

The site is bounded to the south by a tributary stream of the Broadmeadow River, to the north and east by other undeveloped sites

and to the east by the newly constructed residential dwellings which front onto Millbourne Crescent.

Approximately 100 metres to the south of the subject site is the newly constructed Donoghmore Ashbourne GAA Complex which also includes a new primary school/educational campus (Reg. Ref. AA/140734). Construction work on the new school to the south-west of the site has commenced and it is anticipated that the school will open in September, 2017.'

- 2.3** The attached Photographs in **APPENDIX B – PHOTOGRAPHS** (including Key Plan which indicates the approximate Photograph locations) illustrate the nature of the subject site and its context.

3. PROPOSED DEVELOPMENT

Planning Application

- The proposed development comprises as specified in the Public Notices: 'Permission for construction of 11 no. 2-storey semi-detached 3-bedroom houses (with optional ground floor rear annex and optional attic conversion) and 3 no. 2-storey semi-detached 4-bedroom houses (with optional attic conversion) and all associated site works at Millbourne – Southern-most point of Millbourne Avenue, south of Millbourne Drive (Planning Ref. DA13/0728), Millbourne, Ashbourne, County Meath.'
- The submitted detailed drawings of the proposed fourteen semi-detached two-storey dwellings including provision of thirty car parking spaces (two spaces per dwelling and two additional visitor spaces) on the subject site lands are noted.
The submitted Planning Report and Review of Fluvial Flood Risk Information are also noted.

4. NOTIFICATION OF DECISION OF PLANNING AUTHORITY - Submissions and Relevant Reports

4.1 Third Party Submissions (44) on Planning Application

- The Third Party Submissions received are noted and included as summarised in the Planning Report for the Planning Authority:

‘Proposed development would be contrary to good planning for the Millbourne estate.

Application would contradict the Ashbourne LAP particularly in respect of open space provision.

Application is a repeat application and the issues surrounding the previous decision to refuse permission still apply.

Condition of Riverwalk Court in Ratoath which is stated to have been developed by the same landowner.

Site is too close to the river bank.

The applicant site is the only open green site for the residents of Millbourne.

At present, children play on the roads of the estate.

Concern that lack of green space in the development will result in a serious accident.

Impact on drainage and flood risk.

Value of retaining riparian strip along the river.

Site acts as a buffer between the built-up area and the river.

Research in the area of green spaces and their influence on mental health and the promotion of physical activity.

Preservation of biodiversity.’

4.2 Road Design Section Report

This report, dated 20th November, 2015 included as follows:

‘This site is the last portion of the Millbourne/John’s Wood site which links the R135 (old N2) with the school lands and ultimately the new town centre and park....’, and

‘In order to assess this application with regard to transportation facilities and links to other parts of the town centre the following must be submitted.....’

4.3 Environment Section Report

This report, dated 30th November, 2015 included as follows:

‘A flood risk assessment was submitted. The FRA has been completed in accordance with the Planning System and Flood Risk Management Guidelines. No objection to the conclusions as stated in the report.’

4.4 Submission of Office of Public Works

The Submission was summarised in the Planning Report for the Planning Authority as follows:

‘The submission states that the site does not interfere with any channels that form part of the Broadmeadow and Ward Arterial Drainage Scheme. Details are enclosed of an excerpt from the National Flood Hazard Mapping website detailing the flood events and reports in the Ashbourne area. In several locations in Ashbourne there are benefitting lands which identify land that might benefit from the implementation of Arterial Drainage Schemes and indicating areas of land subject to flooding and poor drainage.’

4.5 Submission of Inland Fisheries Ireland

The Submission was summarised in the Planning Report for the Planning Authority as follows:

‘Submission states that the development is within the catchment of the Broadmeadow River, an important salmonid system. It notes that all measures necessary should be taken to ensure comprehensive protection of local aquatic ecological integrity, in the first place by complete impact avoidance and as a secondary approach through mitigation by reduction and remedy. This is elaborated upon further in the submission. It is also stated that the IFI recommend the retention of a natural riparian strip of 10 metres each side of all streams.’

4.6 Planning Report for Planning Authority

- The Planning Report, dated 7th December, 2015 included a Site Description and documented the extensive Planning History of the area and National and Local Planning Policy including provisions of the 2013-2019 Meath County Development Plan and the 2009-2015 Ashbourne Local Area Plan which remains in force. Third Party Submissions (44) and the Submissions of the Office of Public Works and of the Inland Fisheries Ireland and the Technical Reports for the Planning Authority were noted.
- The Planning Report for the Planning Authority included stating under ‘Planning Policy’ as follows in regard to the A2 ‘New Residential’ zoning of the subject site in the Local Area Plan:
‘It is noted, however, that the A2 zoning specifically has the objective ‘to provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy’. It is clear that this zoning recognises the need for supporting facilities and services to meet the requirements for new residential communities. At present, the application site

represents the only area of public open space serving Millbourne. In addition to the zoning, the Meath County Development Plan 2013-2019 places a strong emphasis on the creation of sustainable communities e.g. core principle 2 in the core strategy, section 2.3 of the Plan. A prerequisite of this is the provision of supporting facilities and services. The proposed development would result in the redevelopment of existing public open space where no commensurate, replacement open space is being provided. This is not considered to be consistent with the sustainable development of this area and is considered to be contrary to the A2 zoning on the site and its environs.'

- Under 'Designated Amenity' the Planning Report included stating: 'In this instance, the proposal of a density of 22 units per hectare is permissible in broad terms in the context of the overall site layout and scheme in Millbourne.', and also 'Given that the scheme contains 11 units, the house types and design are considered acceptable particularly in the context of the mix and variety of units provided in the Millbourne development generally.'
In regard to Private Open Space and the proposed optional attic conversions and rear returns to the housing units was stated: 'Were these elements implemented, the private open space would not reach the required standard for all units. This is not considered acceptable in the context of the dearth of public open space available locally to serve the units.'
- Under 10.3.3 'Public Open Space' the Planning Report stated: 'Section 11.2.2.2 of the Development Plan requires that a minimum of 15% of site area is devoted to public open space.....
The proposed development also requires consideration in the context of the provision of public open space serving Millbourne as a whole. The Planning Authority has received a substantial number of submissions which raised concerns regarding the proposed development particularly in relation to public open space. At present, the applicant site represents the only area of public open space in Millbourne, save for small, planted incidental spaces. While not all of the scheme has been completed, there is no area of public open space indicated in the layout for the eastern area of the scheme which remains to be built.'
- Under 'Conclusion and Recommendation' was stated as follows: 'The proposed development would involve the development of the only significant area of public open space serving an existing

residential development. In addition, there are no plans in place to provide replacement, commensurate open space. It is considered that the proposal would be premature pending further consideration and resolution of public open space provision in Millbourne and the wider environs, contrary to the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas', the Meath County Development Plan 2013-2019, the Ashbourne Local Area Plan and the proper planning and sustainable development of the area.'

4.7 Notification of Decision of Planning Authority

The Planning Authority issued a notification of decision to **REFUSE PERMISSION** for Reasons and Considerations (3) as follows:

1. The proposed development, which seeks to develop an existing area of public open space and an area of land indicated for use as open space in a planning application would materially contravene policies SOC POL 39 and SOC POL 42 of the Meath County Development Plan 2013-2019 and SOC POL 16 of the Ashbourne Local Area Plan which seek 'To resist the loss of existing public open space, unless alternative recreational facilities are provided in a suitable location' and 'To maintain free from development lands that are subject of a deed of dedication or identified in a planning permission as open space to ensure the availability of community and recreational facilities for the residents of the area'. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development would result in the absence of any significant area of public open space to serve the residential development of Millbourne. It would be detrimental to the residential amenities of the area and contrary to the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' and Meath County Development Plan 2013-2019 which recognise the need and benefit of high quality public open space to serve residential areas and create sustainable communities and the A2 site zoning which seeks to provide new residential communities and ancillary community facilities. The proposed development would therefore be contrary to the proper planning and sustainable development of the area and would be a poor precedent for other similar development.
3. The proposed development, by virtue of deficient provision of public open space, the peripheral location and the lack of overlooking to same, would be contrary to the standards for public open space

provision set down in the Meath County Development Plan 2013-2019 and Ashbourne Local Area Plan. The proposed development would, therefore, seriously injure the amenities of future residents and would be contrary to the proper planning and sustainable development of the area.

5. APPEAL GROUNDS

First Party Appeal

- The First Party Appeal Grounds included stating as follows:
'Under the 'parent' Planning Application (Reg. Ref. DA03/0422) the subject site was to remain as a *'temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site'*.
The land to the south and south-west of the subject site was acquired by the Department of Education and construction works to develop an educational facility with significant public open space provision to serve the local area has commenced. Therefore, it is respectfully submitted that this requirement has been fully addressed and consequentially the application site is no longer required as temporary open space in accordance with previous planning permission and the development plan zoning for the site.'
- The Appeal Grounds included under *Ashbourne Linear Park*:
'It is noted the development of the Ashbourne Linear Park (a park being developed west/east through Ashbourne on the line of the Broadmeadow River) to the south of the subject site, is being advanced with working drawings being prepared (Meath County Council have appointed consultants) and finance allocated for construction to commence. It is respectfully submitted that the applicant site can be developed given the time scale envisaged for the development of the linear park. Therefore development of the application site is not premature to the provision of suitable and accessible open space to serve the development hereunder proposed and indeed the existing development of Millbourne.'
- The Appeal Grounds relating to Reason for Refusal No. 1 included:
'It is respectfully submitted that the statement made under Reg. Ref. DA03/0422 that the subject site was to remain as a *'temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site'*

was fully addressed when the lands designated as strategic open space to the south and south-west of the subject site were acquired by the Department of Education.'

- The Appeal Grounds relating to Reason for Refusal No. 2 included: 'The subject site has remained as a *'Temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site'*. The Department of Education has acquired the lands to the south and south-west of the subject site and development has commenced on the permitted development (Reg. Ref. AA/140734) which will include significant public open space integrated within the linear park which can serve the residential development of Millbourne. As illustrated in Figure 5..... it is submitted that there is a very significant open space designated on the lands to the south and south-west of the appeal site which is in public ownership.' *Figure 5: Extract from Planning Application Ref. AA/140734 – 'Open Space and Landscaping Proposals'*.
- The Appeal Grounds relating to Reason for Refusal No. 3 included: 'Notwithstanding the applicant's strong view that the development of this site, as the case with the overall Millbourne site, is predicated on the principle of the permanent public open space being provided as part of the Ashbourne Linear Park, the applicant would be agreeable to a financial condition in lieu of public open space. The applicant has previously made substantial financial contributions towards the development of this linear park. It is respectfully submitted that this is a matter that can be appropriately addressed by way of a condition requesting a financial contribution in lieu of public open space.'
- Under 'Other Issues' the Appeal Grounds included submitting: 'The subject site and proposed development could enable important pedestrian and cycle links between the schools and Millbourne, St. John's Wood Park and Brindley Park to be delivered whilst also providing the opportunity to facilitate a potential vehicular link with the school lands and road (under construction). It is respectfully submitted that the provision of this link in tandem with the opening of the schools (under construction) is important to enhancing the permeability and sustainability of the local area.'

6. APPEAL RESPONSES

6.1 Appeal Observation of Millbourne Residents Association

- The Appeal Observation received 3rd February, 2016 included:
‘The development of the site in question would undoubtedly contradict the Local Authority Development Plan for Ashbourne on numerous aspects. I refer to page 49-51, 6.6 Open Space and 6.6.1 Open Space Standards in Residential Areas – It states that ‘Public Space shall be provided for in residential development at a minimum rate of 15% of total site area.....’ and also
‘Public open space within residential developments should be designed so as to compliment the residential layout and be informally supervised by residents. The spaces should be visually and functionally accessible to the maximum number of dwellings.’
- The Appeal Observation raised issues of concern and concluded:
‘The Millbourne estate, in the main, is populated by young families. There are a lot of small children in the estate. It is to be expected that the number of small children will increase considerably.
It has been a grave concern to all residents that children gather and play on the roads of the estate. It is necessary for our community to have an open area that is safe, secure and can be monitored and controlled by residents and parents.
The proposed site of the application is the only open green site for the residents of Millbourne.’

6.2 Representation of Senator Thomas Byrne

This Representation received 25th January, 2016 included:

‘Having read in detail the main objections that were presented to Meath County Council by the local residents, I have similar concerns about this development, and share their objection.

While I appreciate there is a serious need for housing at the present time, it is vitally important that responsible and sustainable planning is enforced and executed by the Planning Authorities, consequently I would respectfully ask you to refuse planning permission to this proposed development.’

6.3 Planning Authority Appeal Response

This Appeal Response received 2nd February, 2016 included stating: 'The planner's report prepared for this application dated 2nd December, 2015 refers to the planning history of these lands. It is not considered that developments since Reg. Ref. DA/30422 was granted have negated the use of these lands for open space as indicated in Reg. Ref. DA/30422, given that strategic public open space has not become available and there is no public open space available within the Millbourne scheme to serve residents. The Ashbourne linear park project is currently at design stage. The Planning Authority would have concerns regarding the provision of additional housing at this location in the absence of available public open space.

It is considered that there is a functional difference between the land provided as open space within a residential scheme and a public park, with the former particularly valuable as a play area for small children in proximity and within sight of their home. In light of issues associated with public open space in this area, the Planning Authority do not consider it appropriate to accept a financial contribution in lieu of the provision of public open space as proposed in the appeal submission.'

7. PLANNING HISTORY

- The Planning Report for the Planning Authority documented the extensive Planning History of the subject site/area including the recent refusal of a similar-type planning application Ref. AA/150040 for Reasons and Considerations (3) as stated and also as follows: 'DA/30422: Permission was granted for a mixed use development on a 6.38 hectare site. 0.26 hectares is being reserved as part of a site for a Primary School to be developed by others under separate permission at a later stage.

The subject lands were included within the boundary for this application. A hatching was applied to the lands on the site plan received on 17th November, 2003 which stated '0.26 hectares of the applicant's site reserved for future Primary School by others at a later date'. The lands to the immediate south (outside of the site boundary) were also hatched as a reservation for a primary school. On the site layout plan submitted on 19th July, 2004 a similar demarcation was shown on the lands stating 'Temporary open space until strategic open space lands become available or acquired by the Department of Education or other as a school site.'

- The First Party Appeal Grounds included submitting in regard to Planning Application Reg. Ref. DA03/0422.

‘In November 2003, the Rybo Partnership applied for a planning permission for a mixed use development on a 6.38 hectare site to the south of St. John’s Wood Housing development (Reg. Ref. DA03/0422). The application provided for 409 no. dwellings and all related site works including access roads, car parking, landscaping and open space.

As part of the application, a 0.26 hectare portion of the overall site was identified for a Primary School to be developed by others under a separate planning application. As Figure 2 below shows, the primary school area is the same as the subject site.

Drawings submitted in response to a request for Further Information (see Figure 3) indicate that it was intended to use the subject site as *‘temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site’*. and also

‘In its decision dated 12/08/2004, Meath County Council granted planning permission for the application subject to a total of 29 conditions. It should be noted that aside from the general requirement that the development be carried out in accordance with the plans and particulars submitted to the Council, none of these conditions specifically relate to the use of the subject site.

It is important to note that the statement made on the drawing submitted under Reg. Ref. DA03/0422 that the subject site was to remain a *‘temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site’* was fully addressed when the adjoining open space zoned lands to the south of the subject site (see Figure 4) were acquired by the Department of Education. The department is currently developing these lands to the south and south-west of the application site under planning permission Reg. Ref. AA/140734.

The approved development (Reg. Ref. AA/140734) features a new Post Primary School, two new Primary Schools (Gaelscoil and Educate Together National School), new road infrastructure and open space/landscaped areas including a natural trail garden.’

8. DEVELOPMENT PLAN / LOCAL AREA PLAN

- 8.1 The provisions of the 2009-2015 Ashbourne Local Area Plan which remains in force and the 2013-2019 Meath County Development Plan have been considered, and in particular the following provisions which are attached in **Appendix C – Development Plan:-**

Local Area Plan – Incorporating Amendment Number 1 made on the 3rd March, 2015:-

- The ‘A2 – New Residential’ land use zoning objective for the site:
‘To provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy.’
- Section 6.6.1 – ‘Open Space Standards in Residential Areas’ including: ‘Public open space shall be provided for in residential development at a minimum rate of 15% of total site area.....’
- ‘In terms of open space, it is the policy of Meath County Council:
SOC POL 15 – To ensure that high quality open space is provided to serve the active and passive recreational needs of the population of Ashbourne.
SOC POL 16 – No residential development shall be permitted on lands that are subject to a deed of dedication or identified in a planning application as open space to ensure the availability of community and recreational facilities for the residents of the area.’
‘Objectives: In terms of open space facilities, it is an objective of Meath County Council:
SOC OBJ 16 – To require that public open space in residential developments shall be provided at a minimum rate of 15% of total site area.....’

Development Plan

- *Section 11.2.2.2 – ‘Houses’* which includes stating as follows:
‘4. Public open space shall be provided for in residential development at a minimum rate of 15% of total site area. Where residential developments are close to existing facilities or natural amenities or where, in the opinion of Meath County Council, it would be in the interest of the proper planning and sustainable development of the area, then Meath County Council may require a financial contribution towards the provision of public open space or recreational facilities in the wider area in lieu of public open space within the development....’

- ‘Policies – It is a policy of Meath County Council:
SOC POL 39 – To resist the loss of existing public open space, unless alternative recreational facilities are provided in a suitable location.
SOC POL 42 – To maintain free from development lands that are subject of a deed of dedication or identified in a planning permission as open space to ensure the availability of community and recreational facilities for the residents of the area.
SOC POL 5 – To require as part of all new large residential and commercial developments , and in existing developments where appropriate, that provision is made for facilities including local/neighbourhood shops, childcare facilities, schools and recreational facilities, and to seek their provision concurrent with development.’

8.2 The ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ published by the Department of the Environment, Heritage and Local Government in December 2008, have also been noted.

9. PLANNING ASSESSMENT – Issues and Evaluation

Having regard to the above and having inspected the site and having reviewed all documents on file, the following is my assessment of this case where the major planning issues for consideration are as follows:

Proposed Development and First Party Appeal Grounds

- The subject site lands at Millbourne, Ashbourne are located within a new suburban residential area to the north-west of the town centre of Ashbourne in County Meath. The Millbourne residential development including apartments and dwellings is largely completed and was the subject of a number of planning applications. The subject site lands (area 0.5 hectares) comprise a generally level well-maintained grassed area which is bounded by existing houses and a permitted development (Reg. Ref. AA/140734) under construction on the adjoining lands to the south – see Photographs in Appendix B.
- I note the First Party Appeal Grounds stated in this regard:
 ‘Approximately 100 metres to the south of the subject site is the newly constructed Donoghmore Ashbourne GAA Complex which

also includes a new primary school/educational campus (Reg. Ref. AA/140734). Construction work on the new school to the south-west of the site has commenced and it is anticipated that the school will open in September, 2017.'

- The proposed development comprises as specified in the Public Notices: 'Permission for construction of 11 no. 2-storey semi-detached 3-bedroom houses (with optional ground floor rear annex and optional attic conversion) and 3 no. 2-storey semi-detached 4-bedroom houses (with optional attic conversion) and all associated site works at Millbourne – Southern-most point of Millbourne Avenue, south of Millbourne Drive (Planning Ref. DA13/0728), Millbourne, Ashbourne, County Meath.'
- The submitted detailed drawings of the proposed fourteen semi-detached two-storey dwellings including provision of thirty car parking spaces (two spaces per dwelling and two additional visitor spaces) on the subject site lands are noted.
- I note the Third Party Submission (44) on the Planning Application including where submitted that the subject site lands comprise *'the only open green site for the residents of Millbourne'* and which also raised concerns in regard to potential flooding of the site.
- I note in this regard the Environment Section Report for the Planning Authority: 'A flood risk assessment was submitted. The FRA has been completed in accordance with the Planning System and Flood Risk Management Guidelines. No objection to the conclusions as stated in the report.'
- I note that the Planning Report for the Planning Authority included stating under 'Planning Policy' in regard to the A2 'New Residential' zoning for the subject site in the Ashbourne Local Area Plan: 'It is noted, however, that the A2 zoning specifically has the objective *'to provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy'*. It is clear that this zoning recognises the need for supporting facilities and services to meet the requirements for new residential communities. *At present, the application site represents the only area of public open space serving Millbourne.* In addition to the zoning, the Meath County Development Plan 2013-2019 places a strong emphasis on the creation of sustainable

communities e.g. core principle 2 in the core strategy, section 2.3 of the Plan. A prerequisite of this is the provision of supporting facilities and services. *The proposed development would result in the redevelopment of existing public open space where no commensurate, replacement open space is being provided. This is not considered to be consistent with the sustainable development of this area and is considered to be contrary to the A2 zoning on the site and its environs.* (Italics added)

- I note that *Section 11.2.2.2 – ‘Houses’* in the Meath County Development Plan and *Section 6.6.1 – ‘Open Space Standards in Residential Areas’* in the Ashbourne Local Area Plan requires that *‘Public open space shall be provided for in residential development at a minimum rate of 15% of total site area’* – and that as stated in the Planning Report for the Planning Authority:
‘At present, the application site represents the only area of public open space in Millbourne, save for small, planted incidental spaces. While not all of the scheme has been completed, there is no area of public open space indicated in the layout for the eastern area of the scheme which remains to be built.’ (Italics added)
- The Planning Authority issued a notification of decision to **REFUSE PERMISSION** for Reasons and Considerations (3) as follows:
 1. The proposed development, which seeks to develop an existing area of public open space and an area of land indicated for use as open space in a planning application would materially contravene policies SOC POL 39 and SOC POL 42 of the Meath County Development Plan 2013-2019 and SOC POL 16 of the Ashbourne Local Area Plan which seek ‘To resist the loss of existing public open space, unless alternative recreational facilities are provided in a suitable location’ and ‘To maintain free from development lands that are subject of a deed of dedication or identified in a planning permission as open space to ensure the availability of community and recreational facilities for the residents of the area’. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
 2. The proposed development would result in the absence of any significant area of public open space to serve the residential development of Millbourne. It would be detrimental to the residential amenities of the area and contrary to the ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ and Meath County Development Plan 2013-

2019 which recognise the need and benefit of high quality public open space to serve residential areas and create sustainable communities and the A2 site zoning which seeks to provide new residential communities and ancillary community facilities. The proposed development would therefore be contrary to the proper planning and sustainable development of the area and would be a poor precedent for other similar development.

3. The proposed development, by virtue of deficient provision of public open space, the peripheral location and the lack of overlooking to same, would be contrary to the standards for public open space provision set down in the Meath County Development Plan 2013-2019 and Ashbourne Local Area Plan. The proposed development would, therefore, seriously injure the amenities of future residents and would be contrary to the proper planning and sustainable development of the area.

- The Appeal Grounds relating to *Reason for Refusal No. 1* included: 'It is respectfully submitted that the statement made under Reg. Ref. DA03/0422 that the subject site was to remain as a *'temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site'* was fully addressed when the lands designated as strategic open space to the south and south-west of the subject site were acquired by the Department of Education.'
- The Appeal Grounds relating to *Reason for Refusal No. 2* included: 'The subject site has remained as a *'Temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site'*. The Department of Education has acquired the lands to the south and south-west of the subject site and development has commenced on the permitted development (Reg. Ref. AA/140734) which will include significant public open space integrated within the linear park which can serve the residential development of Millbourne. As illustrated in Figure 5..... it is submitted that there is a very significant open space designated on the lands to the south and south-west of the appeal site which is in public ownership.' *Figure 5: Extract from Planning Application Ref. AA/140734 – 'Open Space and Landscaping Proposals'*.
- The Appeal Grounds relating to *Reason for Refusal No. 3* included: 'Notwithstanding the applicant's strong view that the development of this site, as the case with the overall Millbourne site, is predicated on the principle of the permanent public open space

being provided as part of the Ashbourne Linear Park, the applicant would be agreeable to a financial condition in lieu of public open space. The applicant has previously made substantial financial contributions towards the development of this linear park.

It is respectfully submitted that this is a matter that can be appropriately addressed by way of a condition requesting a financial contribution in lieu of public open space.'

- Having reviewed all the submissions on file including as outlined above and noting in particular that *'At present, the application site represents the only area of public open space serving Millbourne'* as stated in the Planning Report for the Planning Authority, I fully concur with this Planning Report where also stated as follows:
'The proposed development would result in the redevelopment of existing public open space where no commensurate, replacement open space is being provided. This is not considered to be consistent with the sustainable development of this site and is considered to be contrary to the A2 zoning on the site and its environs.'
- In this regard I have considered the First Party Appeal Grounds submission: 'Under the 'parent' Planning Application (Reg. Ref. DA03/0422) the subject site was to remain as a *'temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site'*; and also the Appeal Grounds submissions regarding the development of the *Ashbourne Linear Park* and the development of the *New School* on lands to the south and south-west of the site.
- I note again that there is no significant area of public open space available within the extensive Millbourne residential development as set out in the submissions on file of the Planning Authority and the Millbourne Residents Association, and that with reference to 'the parent Planning Application (Reg. Ref. DA03/0422)' as set out above that the subject site lands have not been *'acquired by the Department of Education or other as a school site'*.
- The lands to the south and south-west of the subject site where the permitted development under construction (Reg. Ref. AA/140734) includes 'significant public open space integrated with the linear open park', are not considered to be such as to justify granting permission for the proposed residential development on *'the only*

open green site for the residents of Millbourne' as submitted in the Appeal Observation of the Millbourne Residents Association.

- In this regard therefore I fully concur with the *Planning Authority Appeal Response* where stated as follows:

'The planner's report prepared for this application dated 2nd December, 2015 refers to the planning history of these lands. It is not considered that developments since Reg. Ref. DA/30422 was granted have negated the use of these lands for open space as indicated in Reg. Ref. DA/30422, given that strategic public open space has not become available and there is no public open space available within the Millbourne scheme to serve residents. The Ashbourne linear park project is currently at design stage. The Planning Authority would have concerns regarding the provision of additional housing at this location in the absence of available public open space.

It is considered that there is a functional difference between the land provided as open space within a residential scheme and a public park, with the former particularly valuable as a play area for small children in proximity and within sight of their home. In light of issues associated with public open space in this area, the Planning Authority do not consider it appropriate to accept a financial contribution in lieu of the provision of public open space as proposed in the appeal submission.' (Italics added)

- Furthermore in this regard I note where stated in the *Planning Report for the Planning Authority* in regard to the 'parent' planning permission (Reg. Ref. DA/30422) as follows:

'DA/30422: Permission was granted for a mixed use development on a 6.38 hectare site. 0.26 hectares is being reserved as part of a site for a Primary School to be developed by others under separate permission at a later stage.

The subject lands were included within the boundary for this application. A hatching was applied to the lands on the site plan received on 17th November, 2003 which stated *'0.26 hectares of the applicant's site reserved for future Primary School by others at a later date'*. The lands to the immediate south (outside of the site boundary) were also hatched as a reservation for a primary school. On the site layout plan submitted on 19th July, 2004 a similar demarcation was shown on the lands stating *'Temporary open space until strategic open space lands become available or acquired by the Department of Education or other as a school site'*.

- I note also the *First Party Appeal Grounds* included submitting in regard to Planning Application Reg. Ref. DA03/0422.

'In November 2003, the Rybo Partnership applied for a planning permission for a mixed use development on a 6.38 hectare site to the south of St. John's Wood Housing development (Reg. Ref. DA03/0422). The application provided for 409 no. dwellings and all related site works including access roads, car parking, landscaping and open space.

As part of the application, a 0.26 hectare portion of the overall site was identified for a Primary School to be developed by others under a separate planning application. As Figure 2 below shows, the primary school area is the same as the subject site.

Drawings submitted in response to a request for Further Information (see Figure 3) indicate that it was intended to use the subject site as 'temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site'.
- I note the submitted *Figure 2- Site Layout drawing* includes 'Approximate Outline of Subject Site' (area 0.26 hectares) as specified with the remaining lands (approximately 6 hectares) indicated for residential development. I note also in regard to *Figure 2* that as stated in the *First Party Appeal Grounds* above: *'the primary school area is the same as the subject site'.*
- I note the submitted *Figure 2 – Extract from Application Drawing* indicating *'Grass terraces on the subject site'*, and contrary to as submitted in the *First Party Appeal Grounds* I do not consider that 'the statement made on the drawing submitted under Reg. Ref. DA03/0422 that the subject site was to remain a *'temporary open space until strategic open space lands became available or acquired by the Department of Education or other as a school site'*, was fully addressed when the adjoining open space zoned lands to the south of the site (see *Figure 4*) were acquired by the Department of Education' – for reasons as already set out above including that the subject site is not to be developed as a Primary School site; and the public open space lands included within the New School development on lands adjoining the subject site to the south/south-west, would not qualify as *'strategic open space lands'* to serve the residents of Millbourne for the reasons as set out in the Planning Authority Appeal Response including that as stated *'there is no public open space available within the Millbourne scheme to serve residents'*. (Underlining added)

- In conclusion I accordingly recommend that permission be refused for Reasons and Considerations generally in accordance with the stated Reasons and Considerations of the notification of decision of the Planning Authority to refuse permission for the proposed residential development on the subject site open space lands in Millbourne.

Appropriate Assessment

- The Planning Report for the Planning Authority under Appropriate Assessment noted regarding to the nearest Natura 2000 Sites i.e. Rogerstown Estuary SAC/SPA and Malahide Estuary SAC/SPA:-
'Both of these sites are located over 14 kilometres from the application site. The proposed development would utilise public water services. By virtue of the nature of the proposed development and distance from the Natura 2000 sites in question, it is considered that the proposal would not give rise by itself or in combination with other developments to impacts on any Natura 2000 site. In light of this, it is considered that a Stage 2 appropriate assessment is not required in this instance.'
- Having regard to the location of the subject site and the locations of these European Sites, and to the nature and scale of the proposed development, I consider that no Appropriate Assessment issues arise in this case. It is not considered that the proposed development either individually or in combination with other plans or projects, would be likely to have a significant effect on a European Site.

10. CONCLUSIONS AND RECOMMENDATION

In conclusion, further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal, and including the site inspection, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area, having regard to the relevant provisions of the 2013 – 2019 Meath County Development Plan and the current 2009-2015 Ashbourne Local Area Plan which are considered reasonable. Accordingly, I recommend that permission be refused for the proposed development for the Reasons and Considerations stated in the Schedule below.

DECISION

REFUSE permission for the proposed development for the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS

1. The proposed residential development on the subject site open space lands (area approximately 0.5 hectares), would result in the absence of any significant area of public open space within the permitted residential development (Reg. Ref. DA03/0422) of 409 dwellings in Millbourne on a site area of approximately 6.38 hectares – which would seriously detract from the residential amenities of existing and future residents of the area and materially contravene the public open space provision requirements for residential developments in the 2013-2019 Meath County Development Plan (Section 6.6.1) and the 2009-2015 Ashbourne Local Area Plan (Section 11.2.2.2) that ‘Public open space shall be provided for residential development at a minimum rate of 15% of total site area’, and would contravene the ‘A2’ zoning objective in the Ashbourne Local Area Plan for the subject site ‘to provide for new residential communities with ancillary community facilities...’ The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and if permitted would set an undesirable precedent for other similar-type development in the area.
2. The proposed development which seeks to develop an existing open space area of land indicated for use as open space in a planning application (Reg. Ref. DA03/0422), would materially contravene Policy SOC POL 39 of the Development Plan ‘To resist the loss of existing public open space, unless alternative recreational facilities are provided in a suitable location’, and would also materially contravene Policy SOC POL 42 of the Development Plan and Policy SOC POL 16 of the Ashbourne Local Area Plan which prohibit development/residential development on ‘lands that are subject of a deed of dedication or identified in a planning permission as open space to ensure the

availability of community and recreational facilities for the residents of the area'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

DERMOT KELLY
SENIOR PLANNING INSPECTOR

25th April, 2016.

sg

APPENDIX A - LOCATION MAP

APPENDIX B - PHOTOGRAPHS (incl. KEY PLAN)

APPENDIX C - DEVELOPMENT PLAN / LOCAL AREA PLAN