

Inspector's Report PL.17.248899

Development 12 houses and extension of roadway.

Location Millbourne Avenue, South of

Millbourne Drive, Millbourne,

Ashbourne, Co. Meath.

Planning Authority Meath County Council.

Planning Authority Reg. Ref. AA/161470.

Applicant(s) Rybo Partnership.

Type of Application Permission.

Planning Authority Decision Grant Permission.

Type of Appeal Third Party.

Appellant(s) Millbourne Residents Association.

Observer(s) Damian Hurson.

Date of Site Inspection 12th October 2017.

Inspector Karen Kenny.

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1.0 Site Location and Description

- 1.1.1. The Millbourne housing development is located in a residential area on the western outskirts of Ashbourne. Millbourne is accessed from the R135 (former N2) to the north along a local distributor road. The road serves a number of other residential estates to the north including St. John's Wood and Brindley Park and terminates in a cul-de-sac in the Millbourne estate. There is a recently constructed local distributor road and an education campus to the south of the site and lands to the east are undeveloped.
- 1.1.2. The Millbourne housing development is a recently constructed housing development that is nearing completion. There are approximately 250 dwellings completed to date with a mixture of two and three storey houses, apartment and duplex units. Development is ongoing in the north eastern corner of the site. The development has a relatively compact built form. There is a single area of public open space adjacent to the southern site boundary, which is the subject of the current appeal.
- 1.1.3. The appeal site comprises a grassed area and incorporates the estate road to the north and a temporary gravel path and gate to the distributor road south of the site. There is a drainage ditch bounding the site to the south and a low fence and hedgerow separate the grassed area from the drainage ditch.

2.0 Proposed Development

- 2.1. The proposed development consists of 12 no. houses as follows:
 - 9 no. two storey 3 bed semi-detached dwellings.
 - 3 no. two storey 4 bed semi-detached dwellings.
 - 607 square metres of public open space.
 - Vehicular and pedestrian link from the end of Millbourne Avenue to distributor road to the south.
- 2.1.1. The application is accompanied by the following reports:
 - Planning Report.
 - Review of Fluvial Flood Risk Information.

Sustainable Urban Drainage Design Report.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 22 no. conditions. The following condition is of note:

 Condition no. 2 requires the applicant to complete the Millbourne Avenue extension, prior to the construction of the dwellings.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. The Planning Officers Report includes the following assessment:
 - Site zoned A2 'New Residential' with an 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'.
 - Site represents the only area of public open space serving the Millbourne housing development.
 - In relation to open space, the Report includes extracts from Planner's Reports under the previous application Reg. Ref. AA/151074. The extract states inter alia that the removal of the only area of public open space serving the residents of Millbourne is considered to have a significant negative impact on the residential amenities of the area and is contrary to the aims of the Development Plan to require the provision of public open space to serve residential areas.
 - Following the initial assessment, the Planning Officer's Report concluded that further information was required in relation to wastewater discharge, water supply, surface water drainage, road link, elevations and ground levels.
 - The Planning Officer's Report following the submission of further information concluded that having regard to the suitability of the site from a technical

perspective, the existing and permitted development at this location, together with the nature and scale of the development, the development would not seriously injure the amenities of the area nor lead to a devaluation of adjacent property, would not lead to the creation of a traffic hazard nor traffic inconvenience and would therefore be in accordance with the proper planning and sustainable development of the area.

3.2.3. Other Technical Reports

Transport Department: No objection.

Water Services: No objection.

Housing Department: No objection.

Fire Officer: No objection.

3.3. Prescribed Bodies

Irish Water: No objection.

Inland Fisheries Ireland: No objection.

Office of Public Works: No objection.

3.4. Third Party Observations

A total of 86 no. submissions were received from local residents and considered by the Planning Authority. Issues raised are similar to those raised in the grounds of appeal and in the third party observation, as set out below.

4.0 Planning History

Appeal Site

Reg. Ref. AA/151074 / ABP Ref. PL17.245994: Application for 14 no. two storey semi-detached houses on the appeal site. Permission refused by the Planning Authority. The decision was subject to a first party appeal and Bord Pleanála refused planning permission for one reason relating to:

 The lack of any significant area of public open space within the permitted residential development which would seriously detract from the residential amenities of existing and future residents and would contravene the stated objectives of the Meath County Development Plan.

Reg. Ref. AA/150040: Application for 14 no. two storey semi-detached houses on the appeal site. Permission was refused by the Planning Authority for three reasons relating to:

- 1. Contravention of policies of the Development Plan and Local Area Plan that seek to resist the loss of public open space.
- 2. Development would be detrimental to the residential amenities of the area due to the absence of any significant area of open space to serve the residential development of Millbourne.
- 3. Contrary to public open space standards set out in the Development Plan and Local Area Plan.

Millbourne Development

Reg. Ref. DA03/0422: Development comprising 409 dwellings and two retail units on a site of 6.38 hectares. A site of 0.26 hectares was reserved for a primary school at the location of the subject appeal. Permission Granted.

Reg. Ref. DA/091249: Application for 14 no. dwellings in place of apartment / duplex block approved under Ref. Ref. DA3042 (reduction of 11 no. units). Permission granted.

Reg. Ref. DA/10171: Application for 165 no. dwellings in place of 215 no. dwellings approved under Ref. Ref. DA30422 on lands to the north and west of the appeal site (reduction of 50 no. units). Permission Granted.

Reg. Ref. DA/101334: Application for 15 no. dwellings in place of 17 no. dwellings previously approved under Reg. Ref. DA/100171 (reduction of 2 no. units).

Permission

granted.

Reg. Ref. DA/120594: Application for 23 no. dwellings in place of 29 no. dwellings previously approved under Reg. Ref. DA/901249 and DA/100171 (reduction of 6 no. units). Permission granted.

Reg. Ref. DA/130728: Application for construction of 117 no. dwellings in place of 143

no. dwellings previously permitted under Reg. Ref. DA/10171 and Reg. Ref. DA/70424

(reduction of 26 no. units). Permission granted.

Reg. Ref. DA/140046: Application for 4 no. dwellings at end of Millbourne Avenue. Permission granted.

Reg. Ref. AA/160251: Application for 13 no. dwellings in place of 14 no. dwellings previously approved under DA/130728 and DA/140425 (reduction of 1 no. unit). Permission Granted.

Meath County Council granted permission for other minor alterations under the following planning applications: Reg. Ref. DA/140425, Reg. Ref. DA/801798, Reg. Ref. DA/70424, Reg. Ref. DA/70354, Reg. Ref. DA/70331 and Reg. Ref. DA/60382.

Education and Sports Campus to the South

Reg. Ref. AA/140734: Application for post primary school and two primary schools on sites to the south of the appeal site. Permission Granted.

<u>Ashbourne Linear Park Phase 1</u>

Ref. P8/16007: Part 8 consent for upgrade of existing recreational area (c. 1.2-hectares) on lands c. 500 metres to the east of the appeal site. Adopted by resolution of Meath County Council on 13th March 2017.

5.0 Policy Context

5.1. National Guidance:

5.1.1. Sustainable Residential Development in Urban Areas, DEHLG, 2009

The Sustainable Residential Development in Urban Areas set out key planning principles in relation to the design of residential neighbourhoods in urban areas. The Guidelines recognise public open space as a key element in defining the quality of the residential environment. The guidelines recommend that public open space be provided at a minimum rate of 15% of the total site area on greenfield sites and that the allocation should be in the form of useful open spaces, and where appropriate, larger neighbourhood parks to serve the wider community.

5.1.2. Design Manual for Urban Roads and Streets (DMURS), DTTS and DECLG, 2013

DMURS provides guidance in relation to the design of urban roads and streets and sets out principles, approaches and standards for street design. The manual focuses on the creation of a permeable and legible street networks (Chapter 3); self-regulating streets (Chapter 4); safe, comfortable and attractive pedestrian environments (Chapter 4); and an integrated approach to street design (Chapter 5).

5.2. **Development Plan**

- 5.2.1. The Meath County Development Plan 2013-2019 is the Development Plan for County Meath. The following sections are considered to be relevant.
 - The site zoned A2 'New Residential' in the County Development Plan with an 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'. Lands to the south are zoned G1 with an objective 'to provide for necessary community, social and educational facilities'.
 - HS POL 1: To encourage and foster the creation of attractive mixed use sustainable communities which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities.

- HS POL 2: To require a high standard of design in all new residential schemes that are built in a style and scale that is appropriate to the landscape setting.
- 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.
- Section 11.2.2.2: "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 that it would be in the interest of the proper planning and sustainable development of the area, 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."

5.3. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been received from the Millbourne Residential Association. The grounds of appeal, that are relevant to the current appeal, can be summarised as follows:

- Development would be detrimental to the residential amenities of the area.
- The development is contrary to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas which recognise the need and benefit of high quality public open space to serve residential areas.

- Contrary to the Meath County Development Plan open space standards and objectives and policies SOC 16, 39, 40, 41 and 42.
- Original permission had no open space. The subject site was identified as a temporary open space.
- The application is premature and invalid as there is no ability to provide replacement open space for residents.
- Previous refusals by Meath County Council and An Board Pleanála for similar applications.
- Proposal would complete an orbital distributor road. This is not supported by
 objectives of Development Plan / Local Area Plan and road is not designed to
 distributor road standard. Development should be refused due to narrow
 carriageway, tight building lines and large number of children in the Millbourne
 estate.

6.2. Applicant Response

- 6.2.1. The response from the applicant to the grounds of appeal can be summarised as follows:
 - The site layout under Reg. Ref. DA03/0442 references the existing open space as "temporary open space until strategic open space lands become available or acquired by the Department of Education or other as a school site". The area of open space to the south of the existing residential development was from the outset only to be provided on a temporary basis until the strategic educational lands were acquired. This requirement was fully addressed when open space zoned lands to the south were acquired by the Department of Education.
 - The proposed development is for 12 dwellings in comparison to 14 dwellings in the previous applications. The revised proposal includes a public open space area which meets the requirement for 15% public open space on the site and the provision of a road link and pedestrian and cycle lane on the applicant's land to the new school complex to the south.

- Ashbourne linear park will be within walking distance of the site. The park has
 Part 8 approval and is being advanced.
- Application is materially different to previous applications and addresses the Boards previous refusal given the area of public open space within the scheme, along with the development of Ashbourne Linear Park in 2017 and the completion of the new school complex.
- Rybo Partnership has contributed €820,257 to the development of the Killegland Area Action Plan 2003 lands.
- The lands are not the subject of a deed of dedication and were not identified in a planning permission as permanent public open space.
- No longer a requirement for the subject site to function as temporary open space.
- The proposed link road will improve connectivity, permeability and linkages between the school and the wider Milbourne / St. John's Wood residential development. It is imperative to construct this link to the schools as residents in the area would otherwise have to travel a considerable distance of c. 2 kilometres in order to access the schools and the future linear park which are proximate to the site.

6.3. Planning Authority Response

6.3.1. The planning authority request An Board Pleanála to uphold the decision of the Planning Authority.

6.4. **Observations**

An observation has been received from a resident of the Millbourne estate. The issues raised that are additional to the grounds of appeal can be summarised as follows:

 Open Space is a vital component of modern estates and provision falls below the 15% requirement of the Sustainable Residential Development in Urban Areas Guidelines.

- Development would result in loss of visitor car parking spaces and add to parking congestion.
- Traffic hazard associated with cars accessing the schools from Milbourne and turning at the end of the cul-de-sac.
- Junction of St. John's Wood and R135 is unfit for volume of traffic using it and the avenue is too narrow for the volume of traffic using it.

7.0 Assessment

- 7.1. I consider that the main issues in this case are as follows:
 - Planning History
 - Principle of Development
 - Open Space
 - Roads
 - Overall Context, Density and Design
 - Flood Risk
 - Water Services
 - Appropriate Assessment

7.2. **Planning History**

7.2.1. There is a detailed planning history attached to the Milbourne development, as set out in Section 4 above. Planning permission was granted in 2004 (Reg. Ref. DA/30422) for a mixed use development comprising 409 no. dwellings and 2 no. retail units on a site of 6.38 hectares. The development has been subject to a number of amending permissions that has resulted in an overall reduction in the number of units. There would appear to be approximately 250 no. dwelling occupied to date and development is ongoing in the north eastern corner of the site.

7.3. Principle of Development and Compliance with Policy

- 7.3.1. The Meath County Development 2013-2019 is the relevant statutory plan. The appeal site is zoned A2 'New Residential' with an 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'.
- 7.3.2. Residential development is acceptable in principle in the A2 zone. The development is, therefore, acceptable in principle subject to the assessment of the relevant planning issues identified below.

7.4. Open Space

- 7.4.1. Permission is sought to construct 12 no. dwellings on an existing open space at the southern edge of the Milbourne housing development.
- 7.4.2. The grounds of appeal argue that the appeal site represents the only area of public open space in the Millbourne development and that the proposed development would result in a lack of any significant area of public open space. The observer raises similar issues.
- 7.4.3. The development approved under Reg. Ref. DA/30422 and as amended by subsequent permissions has a relatively compact built form and did not incorporate any permanent area of public open space. The Planner's Report under Reg. Ref. DA/30422 stated that "the application is dependent on the open space to be provided as indicated in the Action Area Plan¹ in the form of the linear park along the Broadmeadow river as no area of major public open space is provided within the scheme. This accords with the layout as indicated in the AAP'. The appeal site was identified in the original application as 'temporary open space until strategic open space lands become available or (the site is) acquired by the Department of Education or other as a school site'.
- 7.4.4. The applicant contends that the existing area of open space was provided on a temporary basis until the strategic educational lands were acquired. The applicant argues that the previous reasons for refusal have been addressed due to the

¹ Killegland Area Action Plan 2003

- completion of a new school complex to the south, the provision of a public open space to serve the proposed development, and the proposal by Meath County Council to commence works on an initial phase of the Ashbourne Linear Park.
- 7.4.5. I do not concur with the case put forward by the applicant. While it is clear that the existing open space was intended as temporary open space, it is the only area of public open space serving the Millbourne housing estate. While each planning application must be considered on its own merits, it is clearly evident that the appeal site forms part of a larger housing development and I consider that it needs to be considered in this context.
- 7.4.6. Public open space provision in the wider Millbourne housing estate is significantly below the Development Plan standard of 15 % of site area. While I note the proposal to provide open space as part of the current development this would not address the level of under provision in the Millbourne development. I would also note that revised details received by the Planning Authority at further information stage propose to locate an attenuation tank under the open space and that such areas would not normally be included as part of the open space calculation. The linear park referred to in the original planning application has not been provided. The initial phase referenced in the appeal documents relates to the upgrade of an existing recreational area of 1.2 hectares on lands that are located c. 500 metres east of the appeal site.
- 7.4.7. Public open space is a key element in defining the quality of a residential environment and I consider that a hierarchy of open spaces should be provided as an integral part of the design of a residential development. The level of public open space provision in this instance, outside of attenuation areas is considered inadequate to serve both the proposed dwellings and the wider Millbourne housing development. I consider that to permit further residential development in this area in the absence of any public open space provision of significance would seriously detract from the residential amenities of the existing and future residents of the area and would contravene the open space standards set out in the Meath County Development Plan 2013-2019.

7.5. Road Link

- 7.5.1. The Millbourne development is accessed from the R135 (former N2) to the north, along a link street that serves the residential neighbourhoods to the north and terminates in a cul-de-sac at the appeal site. It is proposed to extend this road to the south to connect into a recently constructed road that serves the education campus to the south.
- 7.5.2. The grounds of appeal argue that the proposed development would complete an orbital distributor road that is not referenced in the Development Plan and that Millbourne Avenue is not designed to distributor road standard. I would note that a link to undeveloped lands to the south formed part of the original development approved under Reg. Ref. DA/30422 and was also detailed on the subsequent permissions. While the road network to the south is now in place the link from Millbourne Avenue has not been completed to date. A temporary pedestrian gate has been erected on the southern boundary to provide access to the schools to the south. The applicant's response to the appeal states that it is imperative to construct this link to the schools as residents in the area would otherwise have to travel a considerable distance of c. 2 kilometres in order to access the schools and the future linear park which are proximate to the site.
- 7.5.3. The Design Manual for Urban Roads and Streets (DMURS), 2013 states that in general greater levels of connectivity are required between significant destinations in urban areas, particularly those generating or attracting large volumes of traffic. There are a series of link streets to the west of the R135 in Ashbourne that link residential neighbours to community facilities and the village core. The proposal to connect Millbourne Avenue into this wider street network is in keeping with the guidance set out in the Design Manual for Urban Roads and Streets.
- 7.5.4. The grounds of appeal argue that Millbourne Avenue is not designed as a distributor road and is unsuitable for the type of traffic the link would generate. The link through St. John's Wood and Brindley Park to the north and the access road to the south are more typical of traditional distributor roads, with no direct frontage or accesses onto the roadway. Conversely, Millbourne Avenue is designed as a street with a narrower carriageway and direct building frontage onto the street. This is in keeping with the design standards set out in DMURS which recommend that vehicular speeds and

- the safety of streets is influenced by design, and in particular by the sense of enclose and width of the street. The Sustainable Residential Development in Urban Areas guidelines also recommend against frontage-free streets (such as distributor roads).
- 7.5.5. I am satisfied on the basis of the foregoing that the details submitted with the application in relation to the road link, would complete a road link that formed part of the original development proposal and that it is in compliance with national guidance set out in the Design Manual for Urban Roads and Streets and in the Sustainable Residential Development in Urban Areas Guidelines and accompanying Urban Design Manual. The original permission for the link to the south under Reg. Ref. DA/30422 has expired and I consider that a grant of permission in respect of this aspect of the development would allow for the completion of a link into the recently completed road infrastructure to south.
- 7.5.6. I consider that the proposal to back development onto the drainage ditch and access road to the south and to provide a high wall along the roadside boundary would be contrary to the guidance set out in DMURS and the Sustainable Residential Development in Urban Areas Guidelines. The guidelines recommend that site features such as this are integrated into the design of a scheme and that roadways have active frontage.

7.6. Overall Context, Density and Design

7.6.1. The overall design and density of the proposed dwellings are in keeping with the character of development in the Millbourne development. Private amenity space is provided in accordance with minimum open space standards set out in Table 11.1 of the Development Plan and the development would not give rise to overlooking or overshadowing of development in the vicinity.

7.7. Flood Risk

- 7.7.1. In relation to flood risk, I note that the zoning map for the area (CDP Variation No.2 2014) identifies Flood Zone A / B on the appeal site. The Broadmeadow catchment has been subject to a number of flood risk studies in recent years.
- 7.7.2. The Engineering Report submitted with the application provides a review of available fluvial flood risk information. It refers to the modelling undertaken as part of the

Fingal East Meath Flood Risk Assessment and Management (FEM FRAM) Study 2011/2012. The flood extents detailed in this study are adjacent to but outside of the site. The more recent CFRAMS Flood Hazard and Risk Maps 2016 are not available for this area, as the final map is under review following an objection, however, on the basis of the available information the site would not appear to be at risk of flooding.

7.8. Water Services

7.8.1. The Engineering Report and the drawings and details submitted with the application and in response to the request for additional information, are considered to satisfactorily address surface water drainage, foul drainage and water supply.

7.9. Appropriate Assessment

- 7.9.1. The site is not located within or adjacent to any Natura 2000 site. The Rogerstown Estuary SAC (000208) and SPA (004015), and Malahide Estuary SAC (000205) and SPA (004025) are within a 15 km radius of the site.
- 7.9.2. The application is not accompanied by a screening report for Appropriate Assessment (AA).
- 7.9.3. While there are limited relevant pathways between the development and the aforementioned Natura 2000 sites, the site is hydrologically linked to Malahide Estuary SAC and SPA via the as the drainage ditch along the southern boundary. The drainage ditch flows into the Broadmeadow River, which in turn discharges to the Malahide Estuary.
 - 7.10. I would suggest that in terms of potential impacts direct loss of land/habitat and surface water and domestic wastewater impacts are considered most relevant.
 - 7.11. The site itself comprises grass cover and therefore there is no loss of significant habitat. I consider that attenuation is proposed within the site and therefore the potential for impact on water quality within the designated sites is remote. In addition, given the distance from the Natura sites and the proposed connection to the public foul network the proposal would not have any adverse effect on the conservations objectives of these sites.

7.12. In respect of the sites mentioned above, I consider that due to the limited value of the vegetation on site, the separation distances of the appeal site from the designated sites and the nature of the proposed development that it is reasonable to conclude, on the basis of the information on the file which I consider to be adequate, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Rogerstown Estuary SAC (000208), Rogerstown Estuary SPA, Malahide Estuary SAC (000205) and Malahide Estuary SPA (004025), in light of the site's Conservation Objectives and a Stage 2 Appropriate Assessment and the submission of an NIS is not therefore required.

8.0 **Recommendation**

8.1.1. I recommend that planning permission should be REFUSED for the proposed 12 no. dwellings for the reasons marked (1) below and GRANTED for the extension of Millbourne Avenue, subject to conditions, for the reasons and considerations marked (2), as set out below.

9.0 **Reasons (1)**

1. The proposed residential development on the subject site would, in the absence of conveniently located alternative public open space, result in a lack of any significant area of public open space within the permitted residential development (planning register reference number DA03/0422 and subsequent applications) which would seriously detract from the residential amenities of existing and future residents of the area and would contravene the stated objectives in the 2013-2019 Meath County Development Plan which seek a minimum rate of public open space of 15% of total site area. 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.

10.0 Reasons and Considerations (2)

10.1. Having regard to the planning history of the site and national policy in relation to sustainable travel and the design of urban roads and streets, it is considered that,

subject to compliance with conditions below, the development would be in accordance with the proper planning and sustainable development of the area.

The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 18th May 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2. The proposed development shall be amended as follows:
 - (a) Omit all dwellings and associated infrastructure from the development.
 - (b) Pedestrian and cycle facilities shall be provided along the eastern and western edge of the proposed road link and connect into facilities on the adjoining access road to the south.
 - (c) The road design and construction details shall comply with the requirements of the planning authority for such road works.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of clarity and traffic safety.

3. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.
Deviation from these times will only be allowed in exceptional

circumstances where prior written approval has been received from the planning authority.

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

Karen Kenny

Planning Inspector

24th October 2017