



An  
Bord  
Pleanála

## Inspector's Report ABP302058-18.

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<b>Development</b>	Modifications to permitted development refs AA/141073 and AA/170488 to include provision of a 2 storey creche in lieu of permitted creche.
<b>Location</b>	Churchfields, Killelland, Ashbourne, Co. Meath.
<b>Planning Authority</b>	Meath County Council.
<b>Planning Authority Reg. Ref.</b>	AA/171432.
<b>Applicant(s)</b>	Cairn Homes Properties Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	Helen O'Connor & Others.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	06/12/2018.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site lies to the south west of the town centre of Ashbourne, Co. Meath. The wider area comprises a recently developed residential area with a significant number of homes completed and occupied. The site lies to the south of the GAA Club grounds and the Ashbourne Education Campus. The wider Churchfields area will, when completed, provide for 518 residential units, potentially equating to approximately 1,600 people living within the scheme.
- 1.2. The subject site currently comprise 2 areas of open space developed as part of the wider residential development and has a stated area of 0.49ha. There is a Gaelscoil in operation immediately to the north of the subject site which is advised as being a temporary arrangement.

## 2.0 Proposed Development

- 2.1. Planning permission was sought for a development which will consist of modifications to permitted application Refs. AA/141073 and AA/170488 to include provision of a 2 storey creche (c.369sq.m) in lieu of the permitted creche granted under Ref. AA/141073. All associated site development works, services provision/drainage works, open space, car/bicycle parking, set-down area, landscaping and boundary treatment works, all at Killeland, Ashbourne, Co. Meath.
- 2.2. The proposed development will comprise a two storey creche building with a stated floor area of 369m<sup>2</sup> and will accommodate 60 children and 14 staff. Play areas and car parking are proposed as part of the proposed development. It is submitted that the creche will operate both full and part-time child care as well as sessional pre-school and an after school club.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority, following a request for further information, decided to grant permission for the proposed development, subject to 16 conditions, including condition 3 which states as follows:

‘The area of ground where the original creche was permitted under AA141073, as indicated on the site location map PA-A1-01, shall remain as public open space to serve the entire housing development.

**Reason:** In the interest of proper planning and the sustainable development of the area.’

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The initial planning report considered the proposed development and submissions made and required further information to be submitted. Following receipt of the response to the FI request, the Planning Officer concluded that while the proposed development would reduce the area of open space at the subject location, the second area of open space provided where the creche was originally proposed would be retained as open space. It was also considered that the proposed location of the creche would be more central within the wider development and was suitable for such a development.

The Planning Officers report and recommendation formed the basis of the Planning Authority's decision to grant permission for the proposed development subject to conditions.

### 3.2.2. Other Technical Reports:

**Transportation Department:** Issues raised that recycling station not identified on plans, design of set-down area and parking and numbers of car parking spaces. Further information required.

**Transportation Department (public lighting):** Conditions recommended.

**Housing Department:** Part V to be met by the delivery of units on site.

**Fire Officer:** Fire Safety Certificate required.

**Water Services Section:** Recommends conditions

### 3.2.3. Prescribed Bodies:

**Inland Fisheries Ireland:** A number of observations are made and in particular, it is submitted that the development is within the catchment of the

Broadmeadow River, an important salmonid system with brown trout throughout and salmon in the lower reaches. There can be no direct pumping of contaminated water from the works to a watercourse at any time.

**Irish Water:** No objections.

#### 3.2.4. Third Party Submissions:

There are 16 submissions noted in relation to the proposed development. The issues raised are summarised as follows:

- Loss of open space
- Flooding potential
- Roads & traffic issues
- Increased traffic in the estate
- Original permitted location for creche is considered better.
- Concerns raised in terms of access for emergency services
- The original location for the creche is currently being used by children and is considered dangerous given its proximity to the car park area associated with the apartment development.

## 4.0 Planning History

There is an extensive planning history relating to the overall Churchfields site. The following is of particular relevance:

**PA ref AA/141073:** Permission was granted for modifications to and completion of the Churchfields residential development. The scheme seeks to provide a revised residential scheme of 366 residential units and a 2 storey creche building of c 538m<sup>2</sup>. Condition 2 of this permission stated as follows:

Units 139 to 150 shall not be permitted. Prior to commencement of development, proposals shall be submitted for the written agreement of the Planning Authority for the use of this area for active public open space.

**Reason:** In the interests of the proper planning and development of the area.

This area of the wider Churchfields development comprises the site the subject of this current appeal. The Board will note that the applicant at that time, appealed this condition to the Board, ABP ref PL.17.245029 refers, however, the appeal was withdrawn prior to any decision issuing from the Board. I would also refer the Board to the Planning Authority Planning Officers report in relation to this area of the overall development site. In addition to the above, condition 18 of Meath County Councils grant of planning permission is also considered relevant and states as follows:

The open spaces shall be developed for, and devoted to, public use and shall be kept free of any development. When the development is being taken in charge, the roads and all public areas including open spaces that have been designated for taking in charge shall be vested in the planning authority, at no cost to the authority.

**Reason:** In order to ensure the proper development of the public open space areas, and their continued use for this purpose.

**PA ref AA/170488:** Permission sought for modifications to Planning permission ref AA/141073 with permission granted for 354 houses. The proposal replaced 181 of the permitted houses within Phase 2 of the scheme with a revised layout comprising 224 residential units. Condition 15 of this permission restated condition 18 of PA ref AA/141073 and the area affected by condition 2, and the omission of houses, provided for public open space as part of this permission. Condition 2 of this permission ties the decision to PA ref AA/141073.

Overall, planning permission exists for 518 residential units within the Churchfields development. It is noted that in terms of the Childcare Facilities Guidelines for Planning Authorities, it has been previously determined that the overall housing development has a requirement for 138 child places. It is noted that the permitted crèche has a surplus of places.

## 5.0 Policy Context

### 5.1. Development Plan

The Meath County Development Plan 2013 – 2019 is the relevant policy document relating to the subject site. The site is zoned objective A2 – ‘New Residential’ where

it is the stated 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'.

## **5.2. Natural Heritage Designations**

The site is not located within any Natura 2000 site. The site lies adjacent to the Broadmeadow River, which is identified as an important salmonid system with brown trout throughout and salmon in the lower reaches.

## **5.3. Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a third party appeal against the decision of the PA to grant permission for the modifications to the permitted development. The grounds of appeal are similar to those issues raised during the PAs assessment of the proposed development and are summarised as follows:

- The changes proposed will materially reduce the quality and quantity of public open space serving the overall development.
- The planning history of the site required this area of the overall development site to be used as public open space to enable links to the open space to the east along the stream.
- The response to the FI request did not address concerns raised.
- The proposed development would be contrary to conditions of permission and the County Development Plan as it relates to public open space provision.

- Flood risk issues have not been adequately addressed with the proposal to raise the floor levels of the building by 0.9-1m above the 1 in 1000 year flood event and 1 in 100 year flood event when the culvert is blocked.
- Car parking proposals remain inadequate and the response to the FI changed the numbers of staff and children.
- It is considered that the development will result in a traffic hazard.
- There is a lack of connectivity with schools as there is no public or private right of way, as indicated as a wayleave by the applicant.
- It is requested that permission be refused.

## 6.2. Applicant Response

The First Party has responded to the third party appeal as follows:

- There will be no net loss in public open space as the original area of the permitted creche will be retained as public open space. The appellants fail to acknowledge the full extent of the public open space network serving Churchfields distributed throughout the development. The area of the original creche has been open space for the past 10 years and is overlooked by existing houses.
- It is not the intention of all open spaces within a residential development to provide for sports activities. The subject open space provides an ideal passive recreational location for residents. There are other areas of active open spaces provided within the development.
- The area remaining to the west of the proposed creche site will be adequate to facilitate informal sports activities.
- The developer is currently in discussions with Ashbourne GAA regarding the provision of a permanent pedestrian access to the new school campus. A temporary connection to the temporary creche facility in the GAA centre will be provided pending a grant of permission for a permanent creche in Churchfields.

- The proposed creche complies with national policy and will not be of a scale to serve other residential developments in the area.
- With regard to flood risk, it is submitted that the flood risk mitigation has been central to the design of the overall scheme over successive applications.
- The FRA undertook a detailed Stage 3 assessment of flood risk and determined that the recommendations of the FRA, when implemented, will ensure that the proposed development will be raised above potential flood levels and there will be no negative impacts on surrounding lands and development.
- Traffic hazard and issues raised by the appellant are unsubstantiated and the proposed location will generate far less car-based traffic than the original creche granted under Ref AA/141073.
- Adequate car parking is provided to serve the proposed creche.
- The originally permitted creche facility was for over 100 children and is too large in scale to serve the Churchfields development and was too peripheral to the majority of residents.
- It is requested that permission be granted.

### 6.3. Planning Authority Response

The Planning Authority responded to the third party appeal advising as follows:

- It is considered that the creche can be accommodated as proposed.
- While the development will reduce the area of open space at the location, the second area of open space where the creche was originally proposed will be retained.
- The proposed creche is centralised within the overall development and would be easily accessible for the majority of residents.
- Issues relating to flood risk, access and traffic safety, the location and design have been adequately addressed.



#### 6.4. **Observations**

None

#### 6.5. **Further Responses**

None

### 7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Planning History & Compliance with Policy
2. Other Issues
3. Appropriate Assessment
4. Environmental Impact Assessment

#### 7.1. **Planning History & Compliance with Policy**

7.1.1. The subject site is located within an emerging built up area of Ashbourne which is primarily residential. Planning permission for the Churchfields residential development is being executed on this large site and there is a significant number of existing residential units already constructed and occupied. Landscaping of this residential area has been implemented as the construction of houses progressed. The site the subject of this third party appeal, is currently occupied by public open space, as conditioned under the parent permission for the overall development of the site.

7.1.2. The proposed development seeks to provide for the previously permitted creche facility within the wider development at an alternative location to previously permitted. The Board will also note that the scale of the proposed creche has been reduced under the current proposal. The relevant planning history for the overall site,

and in particular the public open spaces across the site, are identified above in Section 4 of this report. Of particular relevance is **PA ref AA/141073** where permission was granted for modifications to and completion of the Churchfields residential development. The scheme sought to provide a revised residential scheme of 366 residential units and a 2 storey creche building of c 538m<sup>2</sup>. Condition 2 of this permission stated as follows:

Units 139 to 150 shall not be permitted. Prior to commencement of development, proposals shall be submitted for the written agreement of the Planning Authority for the use of this area for active public open space.

**Reason:** In the interests of the proper planning and development of the area.

The area proposed to be occupied by units 139-150 comprise the site the subject of this current appeal. The Board will note that the applicant at that time, appealed this condition to the Board, ABP ref PL.17.245029 refers, however, the appeal was withdrawn prior to any decision issuing from the Board. I would also refer the Board to the Planning Authority Planning Officers report in relation to this area of the overall development site. Condition 18 of Meath County Councils grant of planning permission stated as follows:

The open spaces shall be developed for, and devoted to, public use and shall be kept free of any development. When the development is being taken in charge, the roads and all public areas including open spaces that have been designated for taking in charge shall be vested in the planning authority, at no cost to the authority.

**Reason:** In order to ensure the proper development of the public open space areas, and their continued use for this purpose.

- 7.1.3. Further to the above, **PA ref AA/170488** sought permission for modifications to Planning permission ref AA/141073 with permission granted for 354 houses. The proposal replaced 181 of the permitted houses within Phase 2 of the scheme with a revised layout comprising 224 residential units. Condition 15 of this permission restated condition 18 of PA ref AA/141073 and the area affected by condition 2, and the omission of houses, provided for public open space as part of this permission. Condition 2 of this permission ties the decision to PA ref AA/141073.

7.1.4. In terms of the above, I would note that Meath County Council sought the retention of the subject site as public open space in order to achieve the open space requirements. I also note that the as permitted development provides for a wonderful riverside area of public open space, along with a children's playground and an adult exercise area. The river walk area is fenced for safety with pockets of open space located beside the footpath. The use of this area for sports related activities is not practical in my opinion. While I note the location of the site in proximity to the GAA grounds, I would also acknowledge that these grounds are not in principle available to the public and are private lands available to members of the GAA only. In reaching its decision on the wider residential development, the Planning Authority considered that the area the subject of this current appeal, was necessary to provide additional active public open space to serve the development. In addition, I note that connectivity was required from the riverside open space to the adjoining lands to the north which are zoned F1 Open Space.

While I accept the submission of the first party regarding the central location of the proposed creche and the convenience of such a proposal, I would consider that the proposed erosion of what I would consider to be the primary active open space area for the large residential development would be contrary to the proper planning and sustainable development of the area. In addition, I would consider that the original site for the creche, at the entrance to the estate, would not comprise the best options for active open space provision for the entire estate, being at a significant remove from large areas of the wider estate and away from the children's playground. While I acknowledge that the proposed relocation of the creche would retain an area of public open space, I consider that the proposed development would materially contravene specific conditions of previous grant of planning permission, being conditions 2 and 18 of PA Ref AA/141703 refers.

## 7.2. **Other Issues**

### 7.2.1. Traffic & Parking:

The third party objectors have raised concerns regarding the potential roads and traffic hazards arising from the proposed development. The proposed development seeks to construct a creche which will accommodate up to 66 children and 14 staff with a requirement for 26 car parking spaces. I note that the response to the further

information request reduced the number of employees from 14 to 8, which would have a parking requirement of 21 spaces (1 space per 5 children and 1 space per employee).

The permitted development proposes 17 car parking spaces with set down for 4 cars proposed. The Board will note that the Transportation Section of Meath County Council was not satisfied with the layout as submitted in response to the further information request and condition 4 of the grant of permission requires revised details of the parking layout be submitted prior to the commencement of development on the site.

While I acknowledge the concerns of the third party appellants, I would acknowledge that the proposed creche is to be provided to serve the requirements of the Churchfields residential development. As such, it is reasonable to consider that a number of children attending the creche might be walked to the site rather than driven and as such, would not so significantly increase traffic levels within the estate. I would acknowledge the concerns of the Transportation Section of Meath County Council but am satisfied that the matter can be appropriately dealt with by way of condition should the Board be minded to grant permission in this instance.

#### 7.2.2. Flood Risk:

A Flood Risk Assessment was submitted in response to the further information request issued by Meath County Council. The FRA notes the location of the subject site within lands which are zoned for residential development in the Meath County Development Plan as well as being identified as Flood Zone B. As part of the FRA, the applicant undertook a Justification Test and noted that there is no history of flooding at the site. Following hydraulic modelling of the site, the proposed finished floor level of the creche is to be +66.7m, which is approximately 1m above the maximum flood levels for the site during a 0.1% AEP event. I am satisfied that the submitted FRA has adequately addressed the potential flood risk concerns arising should permission be granted for the proposed development.

#### 7.2.3. Financial Contributions:

The Board will note that the proposed development is subject to the Section 48 Development Contribution Scheme for Meath County Council. Should the Board be

mindful to grant permission in this instance, a condition in this regard should be included.

### **7.3. Appropriate Assessment**

The site is not located within or adjacent to any Natura 2000 site. Having regard to the location of the subject site, together with the nature and scale of the proposed development on zoned lands, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

### **8.0 Recommendation**

Having regard to the planning history pertaining to the subject site, and in particular to specific conditions of permission relating to the subject site, I recommend that planning permission be refused for the proposed development for the following stated reason.

### **9.0 Reasons and Considerations**

1. Having regard to the planning history of the site, it is considered that the proposed development would materially contravene specific conditions of previous grant of planning permission, condition 2 and 18 of PA Ref AA/141703 refers, which require the subject site area be used for active public open space and be kept free of any development in the interests of the proper planning and development of the area and in order to ensure the proper development of the public open space areas, and their continued use for this purpose. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector  
14/01/2019