



An
Bord
Pleanála

Inspector's Report

ABP-307457-20

Development	Construction of 3 no. apartment blocks and associated works
Location	Southern-Most Point Of Millbourne Avenue, South Of Millbourne Drive, Millbourne, Ashbourne, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	AA190862
Applicant(s)	Rybo Partnership
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Rybo Partnership
Observer(s)	(1) Millbourne Residents Association. (2) Doris Heffernan. (3) Cllr Joe Bonner.

Date of Site Inspection

11th August 2020

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1 The appeal site, which has a stated area of 0.5 hectares, is located to the south west of Ashbourne town centre within the Millbourne residential area. 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 the lands to the east are undeveloped.
- 1.2 The appeal site comprises a grassed area. 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. Millbourne Drive runs along the northern boundary of the site and on opposite side of such are two-storey dwellings.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 3 no. apartment blocks. Each block will be three-storey high plus a penthouse (four-storeys) and will contain 9 no. two-bed and 1 no. three bed apartments. The total number of apartments is 30. The proposal also entails the provision of 30 no. car parking spaces, external bicycle shelter, in storage area along with all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on one reasons...

1. The proposed residential development on the subject site would, in 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 injure the residential amenities of existing and future residents of the area and would contravene the stated objectives of the Meath County development Plan 2013-2019 which seeks a minimum rate of public open space of 15 per cent of the 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.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (21/08/19): Further information required including justification in light of previous refusals on site, provision of a flood risk assessment, provision of a design statement, details of external finishes, justification for apartment mix and building height, provision of minimum required standards for private amenity space, a shadow analysis, measures to deal with overlooking and the information required by other section of the Council.

Planning report (02/06/20): The planning history of the site has a number of refusals for residential development on the basis of the provision of a lack of alternative public open space. The proposal has not addressed this issue. It was recommended that permission be refused based on the reason outlined above.

3.2.2. Other Technical Reports

Irish Water (27/07/19): Further information required concerning design of foul water system.

Water Services (26/07/19): Further information including surface water drainage.

Transportation (15/08/19): Further information required with a shortfall in parking to be addressed.

Water Services (18/03/20): No objection subject to conditions.

Irish Water (23/03/20): No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1 Inland Fisheries Ireland (08/08/19): The development is within the catchment of the Broadmeadow River measure and conditions required to ensure protection of water quality.

3.4. Third Party Observations

3.4.1 A number of submission were received in relation to the proposal. The issues raised can be summarised as follows...

- Previous refusals, loss and status of green/open space, land ownership, inappropriate density and form of development, contrary development and National policy, traffic safety, inadequate parking , surface water management, biodiversity, flood risk, loss of light.

4.0 Planning History

4.1 **PL17.248899 (AA161470)**: Split decision, permission granted for an extension to Millbourne Avenue and permission refused for construction of 12 no. houses.

Refused based on one reason...

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 injure the residential amenities of existing and future residents of the area and would contravene the stated objectives in the Meath County Development Plan 2013-2019 which seek a minimum rate of public open space of 15 per cent 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.

PL17.245994 (AA/151074): Permission refused for 14 no. two storey semi-detached houses on the appeal site. Permission refused based on one reason...

1. 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.

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

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.

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.

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.

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.

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.

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.

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

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.

Ashbourne Linear Park Phase 1

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. Development Plan

The relevant plan is the Meath County Development Plan 2013-2019. The appeal site is zoned A2, Residential (Phase 1) 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”.

5.2 National Policy

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.

Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018)

The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns.

SPPR1:

In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

SPPR3:

It is a specific planning policy requirement that where;

(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and

2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme

(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.

5.3 Natural Heritage Designations

5.3.1 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

5.4 EIA Screening

5.4.1 Having regard to nature of the development comprising of the construction of 30 no. apartment and associated site works, 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

6.1.1 A first party appeal has been lodged by Future Analytics on behalf of the Rybo Partnership. The grounds of appeal are as follows...

- The appeal site has never been connected with the development granted under ref no. DA/30422. It is outside the boundary of this development. The site was earmarked for a school development with a temporary use as public open space agreed with the Council until the school or permanent open space was delivered. The site was previously zoned G1 (Community Infrastructure/Facilities) and was rezoned under the Ashbourne Local Area Plan 2009-2015. The appellants note that the site should not be tied to DA/30422 and should not be required to permanent public open space serving same.
- It is noted that there has been a retrospective application of Development Plan standards and policies to ref no. DA/30422. It is noted that the housing development at Millbourne was to be served by a linear park on adjacent and identified under Meath County Development Plan 2001 and the Ashbourne Area Plan. It is incorrect and unjust to use an independent site to achieve current Development Standards of 15% at a permitted housing development.

- It is noted that planning policy has identified the site as suitable for housing with the site rezoned from being G1 (Community Infrastructure/Facilities) to A2 (Residential). The site should have been zoned F1 (Open Space) or retained as G1 if it was not deemed suitable for housing.
- The appellant notes that the site is in private ownership and has never been taken in charge by the Council and was never intended as permanent open space and is planned for development given the A2 zoning.
- It is noted that there is an option for additional public open space in the area with the applicant provide public open space on lands zoned F1 immediately to the west of Millbourne Crescent and such would link into existing plans for open space in the area.

6.2. Planning Authority Response

6.2.1 Response by Meath County Council.

- The PA note that Board should satisfy themselves on whether the site forms part of the development subject to DA/30422 and as to whether the applicant/appellants have addressed previous reasons for refusal.
- The proposal was assessed based on the County Development Plan standards and having regard to National Planning guidance.
- The site is currently zoned A2 residential however the Board should take cognisance of the forthcoming Meath County Development Plan 2021-2027 and any potential implications for assessment of the current proposal.
- The issue of the provision of high quality open space arose as an issue in apprising the proposed development.

6.3. Observations

6.3.1 An observation has been received from Millbourne Residents Associations.

- It is noted that permission was previously refused on site by An Bord Pleanála twice and that the grounds of appeal contain no new information to justify a change in approach.
- It is noted that these lands always formed part of the lands subject to parent permission ref no. DA/30422 and were only left out of subsequent amendment applications.
- The housing development at this location is to be served by a linear park that has yet to be implemented with the appeal site used as temporary open space. The appeal site should remain as open space until the open space to be delivered in the form of the linear park is implemented. It is noted that current open space provision within Millbourne is below the 15% requirement under the County Development Plan.
- It is noted that the development of this open space should not be considered unless other appropriate, convenient and good quality open space is provided. It is noted that the alternative area of open space suggested by the applicant/appellant is of low quality.
- It is noted that the proposal for an apartment block with insufficient car parking would devalue existing dwellings and be injurious to the amenities of existing properties.

6.3.2 An observation has been received from Doris Heffernan, 60 Millbourne Drive, Ashbourne, Co. Meath, A84RX83.

- This is the fourth proposal for housing on this site with the previous applications refused.
- The applicants have fenced off the area which had been maintained by the residents. The observer notes the proposal is inappropriate with insufficient open space serving existing residential development in the area.

6.3.3 An observation has been submitted by Cllr Joe Bonner, Meath County Council.

- The development description is misleading with the development being four-storeys. The proposal would impact existing parking and provides insufficient parking resulting in an adverse traffic impact.
- The site is important open space with the linear park not yet delivered. The site is originally part of the Millbourne development and was designated open space for such.
- The applicant/appellant have failed to address the reason for refusal.
- The scale and type of development is out of character at this location with the existing pattern of development being two-storey dwellings.
- Risk of flooding due to increased development on adjoining sites and the current proposal.

7.0 Assessment

7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development/development plan zoning

Planning history/public open space

Design, scale, development management standards

Traffic

Appropriate Assessment

7.2 Principle of the proposed development/development plan zoning:

7.2.1 The Meath County Development Plan 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". 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.

7.3 Planning history/public open space:

7.3.1 Permission was refused on the basis of one reason which is outlined above and relates to public open space provision. There is an extensive planning history on the appeal site including two previous refusals issued by An Bord Pleanála for residential development on the appeal site, 12 no. dwellings and 14 no. dwellings under PL17.248899 and PL17.245994 respectively. I would note that the refusal reason in both cases was for the same reason as the current decision under appeal with the refusal reason in this case identical to that issued by the Board under ref no. PL17.248899. An important consideration is whether there is sufficient grounds to grant permission for residential development on the appeal site where such has been refused previously on a number of occasions including two refusals by An Bord Pleanála.

7.3.2 The applicant/appellants argument is that the appeal site has never been connected with the development granted under ref no. DA/30422. It is outside the boundary of this development. The site was earmarked for a school development with a temporary use as public open space agreed with the Council until the school or permanent open space was delivered. The site was previously zoned G1 (Community Infrastructure/Facilities) and was rezoned to A2 residential. The appellants note that the site should not be tied to DA/30422 and should not be required to permanent public open space serving same. The appellants have also suggested the provision of an alternative area for open space if considered appropriate to the west of the site.

7.3.3 A number of observations were received noting that the site was part of the site of the parent permission ref no. DA/30422 and that the area has been used as public open space for the existing housing development, which is deficient in public open space (less than 15% of the area of the housing development and open space areas that were to be delivered in the form of a linear park have yet to materialise).

I would note that previous assessments of the development on the appeal site under both PL17.248899 and PL17.245994 identify that the appeal site is part of the overall site of ref no. DA/30422. I would quote the inspectors assessment under PL17.248899, which states that “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*”.

7.3.4 The Inspectors report under PL17.248899 goes on to state that “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”. The question that arises is that is there any changes in circumstances of information that would merit a change in views towards the provision of residential development on the appeal site. I would note that the applicants/appellant refer to national and regional policy and guidance and the demand for additional housing. I would acknowledge that there is a demand for additional housing, however would note that key element in the provision of housing is the provision adequate amenity space to serve such. In this case I do not consider that there is any change in circumstances or grounds that merit a change in attitude towards residential development on the appeal site and would note that such has been assessed a number of time at this point in time including two appeals assessed by the Board. The applicant/appellants have proposed the provision of an alternative site to the east as an open space area in lieu of the site being developed for residential development. I would question whether such is an equivalent arrangement in terms of size and quality of public open space and would note it is

not a formal proposal part of the application and is suggested arrangement in the appeal submission.

7.3.5 I would consider that there is no new circumstances or grounds to merit a change in attitude towards the redevelopment of the appeal site for housing and would recommend that permission be refused. 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 injure the residential amenities of existing and future residents of the area and would contravene the stated objectives in the Meath County Development Plan 2013-2019 which seek a minimum rate of public open space of 15 per cent 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.

7.4 Design, scale, density, development management standards:

7.4.1 The proposal is for 3 no. four-storey apartment blocks with a total of 30 no. Apartments. The density of the proposed development is 60 units per hectares, which is above the recommended minimum standard of 35 units per hectares for such sites (The Sustainable Residential Development in Urban Areas guidelines). The density is higher than the density on adjoining sites, however I would consider such is acceptable subject to the development being satisfactory in regards to visual and adjoining amenities and meeting the relevant development standards. These issues are to be addressed in the following sections.

7.4.2 In terms of development management standards the most relevant standard are under Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities (March 2018). The design and layout of all apartment units meet the standards set down under the guidelines for apartment

size, room dimensions, storage space and private open space. The guidelines note that “it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. In this case the level of dual aspect units is above 50% and compliant with the guidelines. The level of public open space provided is 26% of the site. It is noted in the guidelines that “for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality”. The County Development Plan (Section 11.2.2.2 (4)) notes in relation to public open space that that in new residential developments, 15% of the site area shall be reserved as public open space the development meets these standards.

7.4.3 The proposal entails the provision of 44 no. car parking spaces within the site. Based on the Development Plan requirements (Table 11.9, 2 no. space per three bed unit, 1.25 no. space per two bed unit and 4 no. visitor parking space for every 4 no. units) the required standard is 44.75 car parking spaces. I would consider that the proposal is compliant in this regard.

7.4.4 The proposal is for 3 no. four-storey blocks with a ridge height of 13.984m with the third floor set back. The external finishes are a mixture of brick and some render detailing and are similar to external finishes of the existing dwellings to the north. The type of development is a departure from existing residential development in the vicinity in that existing dwellings are mainly two-storey semi-detached. I would note that despite the departure in the type of residential development, I am of the view that a proposal for apartment style development at this location would not be significantly out of character or unacceptable scale of development. I am satisfied

the proposal would be satisfactory in the context of the visual amenities of the area and the amenities of adjoining properties.

7.5 Traffic:

7.5.1 The proposal entails using an existing residential service road (Millbourne) Drive for access. The proposal entails the provision of 30 spaces (of 44 spaces in total) along the road frontage of the site. The site is serviced by an established residential service road, which is of a good standard in terms of width with an existing footpath along the south edge and a proposal to provide a pedestrian path along the northern side as part of the proposed development. I would consider that the existing road network is of a sufficient standard to cater for the turning movement likely to be generated by the proposed development. As noted above the proposal is compliant in terms of car parking standards.

7.6 Appropriate Assessment:

7.6.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend refusal based on the following reason.

9.0 Reasons and Considerations

1. The proposed residential development on the subject site would, in 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 injure the residential amenities of existing and future residents of the area

and would contravene the stated objectives of the Meath County Development Plan 2013-2019 which seeks a minimum rate of public open space of 15 per cent of the 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.

Colin McBride
Planning Inspector

09th September 2020