



An
Bord
Pleanála

Inspector's Report ABP-309027-20

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| Development | Provision of 1 vehicular access road for lands to the rear, the relocation of gates, 1 pedestrian entrance at the corner of Millmount Road and proposed new access road to serve Lakeview House. |
| Location | Lands at Hawarden Villa (A Protected Structure) and Lakeview House (A Protected Structure), Millmount Road Mullingar |
| Planning Authority | Westmeath County Council |
| Planning Authority Reg. Ref. | 196279 |
| Applicant(s) | Christian and Isena Pohl |
| Type of Application | Permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party |
| Appellant(s) | Christian and Isena Pohl |
| Observer(s) | David and Mary Zumerchik |
| Date of Site Inspection | 1 st of April 2021 |
| Inspector | Angela Brereton |

1.0 Site Location and Description

- 1.1. The application site is located to the south of Mullingar town centre, on the eastern side of Millmount Road, to the north of but almost opposite the junction with Auburn Road. The application site and proposed new road leads off Millmount Road. The site is located between two existing residential dwellings 'Hawarden Villa' and 'Lakeview House', which are both Protected Structures. A protected monument is located to the rear of the site. The Royal Canal is located to the east.
- 1.2. The application site extends to 0.0635 and forms the entrance to serve the residential dwelling 'Lakeview House' with gates and piers in place. This appears to be in use as a Solicitors Office and there is unmarked parking in the forecourt area. There appears to be a gated pedestrian entrance from the site of Hawarden Villa to this forecourt area. This property has vehicular access to Millmount Road further to the north. The entrance to Lakeview house i.e wings/piers, walls, railings and coping do not comprise the original features. Sightlines are restricted to the south due to the boundary hedge.
- 1.3. Mullingar Community College is on the opposite side of the road. There is some pay and display roadside parking marked out in front. There is also a cycle lane to the south on the opposite side of the road that terminates at the junction with Auburn Road. Millmount Road and the junction to Auburn Road were busy with traffic during the mid-day site visit. There are no pedestrian crossings in the vicinity.

2.0 Proposed Development

- 2.1. This proposal is to comprise the following:
 - The provisions of 1 no. vehicular access road to serve the future development of lands to the rear;
 - The relocation of existing gates and re-use of gates and replication of walls and piers within the proposed 1no. new vehicular entrance off the access road to serve the existing dwelling known as Lakeview House;
 - 1no. pedestrian entrance at the corner of Millmount Road and proposed new access road to serve Lakeview House;

- 1no. pedestrian entrance off the access road to serve Hawarden Villa;
- Boundary treatments, landscaping and all ancillary site and engineering works necessary to facilitate the development.

All on lands at Hawarden Villa (A Protected Structure) and Lakeview House (A Protected Structure), Millmount Road, Mullingar, Co. Westmeath.

2.2. Documentation submitted with the application includes the following:

- A letter of consent for the applicants to lodge the application on her lands known as Lakeview House, Millmount Road, Mullingar from Mary Tunney-Zumerchik, in trust for her husband Dr. David Zumerchik, beneficial owner thereof.
- A letter from Downey Planning to provide details and a rationale of the proposed development.
- Drawings prepared by AOCA Engineers Consultants.

3.0 Planning Authority Decision

3.1. Decision

On the 24th of November 2020, Westmeath County Council, refused permission for the proposed development for the following reasons:

1. *In the absence of satisfactory documentation submitted on file to the contrary, it is considered that the proposed new road and access arrangements to same will have a detrimental impact upon the character and setting of Lakeview House and Hawarden Villa. The proposed new road and access arrangements to same will materially change the appearance and would detrimentally impact on the sting of the structure Lakeview House and by association the appearance, character and quality of the streetscape and public realm onto Millmount Road a designated Architectural Conservation Area. In this regard the proposed works would be contrary to policy PBH3 and PBH7 of the Mullingar Town Plan 2014-2020 and would therefore be contrary to the proper planning and sustainable development of the area.*

2. *In the absence of clarity concerning the development of this access road which also serves the potential future development of lands to the rear of the application site and potential associated traffic levels for same, it is considered that to permit the development as presented is premature and would result in ad-hoc piecemeal development, would pose a risk to traffic safety and would therefore be contrary to the proper planning and sustainable development of the area.*
3. *Having regard to the proposed layout and proximity of access in close proximity to the Auburn Road and Millmount Road Junction, it is considered that the development is premature pending the upgrading of this junction would pose a risk to road users and create a traffic hazard and is contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report had regard to the locational context of the site, planning history and policy and to the inter-departmental reports. It was noted that no submissions were made. Their Assessment included the following:

- The principle of an access to serve lands zoned for proposed residential development is acceptable.
- The lands are located within the Millmount Road ACA, between two protected structures and proximate to a Protected Monument (WM019-058) located to the rear of the site.
- The current application seeks to provide a new road to access the backlands at the rear. It does not include the proposed residential development, at the rear which form part of a new application.
- The subject application is considered to be piecemeal development.
- It is considered that the proposed development will have a negative impact upon the character and setting and residential amenity of adjoining P.S. properties and the ACA.

- They note that the walls, gates and piers have only been constructed recently, and thus do not have architectural significance.
- The proposal would be contrary to Policies PBH 3 and PBH 7 – Built heritage Policies and Objectives.
- The Planner recommended that the proposed development be refused. However, it was recommended that Further Information be submitted.

Further Information request

- The PA noted concerns about the siting of the proposed entrance in close proximity to the junction of the Auburn Road/Millmount Road junction and the secondary school with regard to the existing turning movements and those relative to the future development. They requested that the developer submit design proposals of how they intend to integrate traffic movements that could be generated by the future development of lands at the rear. In addition, that the applicant liaise with the Transportation Section with regard to their response.

Further Information response

Downey Planning's response includes the following:

- This application is solely for an access road wide enough so that can serve the existing dwelling and when an application is lodged for the rear lands that access to those lands can be achieved.
- The potential development at the rear does not form part of this application and will be subject to analysis and assessment under a separate application.
- The purpose of the current application is to establish an access road of an appropriate standard to enable future access requirements in respect of unlocking potential development lands in the interests of orderly planning and sustainable development.
- In order to address the concerns of the PA, NRB Consulting Engineers have carried out a full TTA of the existing road network and have utilised an indicative layout of c.18 houses to demonstrate that there will be no adverse impacts on the surrounding road network.

- They refer to the findings of this Report and provide that should future planning permission be submitted for the development of the backlands that it demonstrates that the width of the road is appropriate to accommodate same.
- The comprehensive assessment demonstrates that the proposed development will have a negligible impact upon established road conditions.
- There are junction enhancements and improvements that can be made albeit such works will be subject to further assessment under a future application.
- This proposal would also be subject to assessment for the appropriate guidance with regards to the development in an ACA.
- They submit that the current proposal which is seeking to future proof and safeguard the development of the rear lands through the provision of a 5.5m wide road is in accordance with the proper planning and sustainable development of the area and they request permission be granted.

Planner's response

Their response includes the following:

- They note that the WCC Road Design departments have reviewed this report and the F.I response and note that the District Engineer recommends refusal relative to a number of road related issues including concerns about sight visibility splays, proximity to the junction and traffic hazard.
- They recommend refusal for 3no. reasons as noted above.

3.3. Other Technical Reports

District Engineer

This Report notes concerns that the proposed development would result in the intensification and undesirable traffic movements at this junction (Auburn Road and Millmount Road). They provide that visibility splays are severely compromised in either directions by existing walls, railings and hedges which are within the curtilage of protected structures. That the plan as proposed would create a junction that would compromise public safety by way of traffic hazard.

They note that the F.I refers to possible future development of 18 dwellings on the back lands to be accessed by the proposed road and provides traffic flow projections. They consider that there is no requirement for this proposed junction as the existing entrance notwithstanding the inadequate visibility splays, is adequate for an existing dwelling. They provide that the F.I does not address the sightline issue at the existing/proposed entrance onto the Millmount Road. They recommend refusal.

Road Design

They provide that the turning movements generated by the future development of the zoned lands at the rear will have to be integrated into the existing turning movements on the Millmount Road at am/pm times. They are concerned that the documentation submitted including at F.I stage has not addressed the P.A's concerns of how they intend to integrate the traffic movements that could be generated by the future development of these lands at the rear.

3.4. Prescribed Bodies

No responses are noted on file.

3.5. Third Party Observations

No responses are noted on file.

4.0 Planning History

The Planner's Report and the documentation submitted by Downey Planning provides details of the Planning History of the site. It is noted that these include extensions and alterations to both Hawarden Villas and Lakeview House, mainly in the early 2000's. The most recent of note is:

- Reg.Ref. 08/5238 – Permission granted subject to conditions by the Council for the construction of 13no. houses and 9no. apartments and associated site works at the rear of Lakeview House, Millmount Road, Mullingar.

A First Party Appeal was made against supplementary and special development contributions (condition nos. 20,21 & 22,23 refer). A Third Party Appeal against the development was also made.

The Board subsequently refused permission for the proposed development (Ref. PL25M.233395 refers). Their 4no. reasons for refusal included in summary: - that it had not been demonstrated that the applicant has sufficient legal interest to carry out the works; the layout as proposed would seriously injure the Royal Canal Corridor; undue risk of flooding; and the apartment block would seriously injure the amenities of adjoining property to the south by reason of its overbearing impact. That the proposed development would seriously injure the amenity of adjoining lands and be contrary to the proper planning and sustainable development of the area.

A copy of this decision is included in the History Appendix. To date permission has not been granted for the development of these back lands.

5.0 Policy Context

5.1. National Policy

It is submitted that the key policy and guidance documents of relevance to the proposed development are as follows:

- Project Ireland 2040 National Planning Framework (2018)
- Regional Spatial and Economic Strategy 2019-2031
- Design Manual for Urban Roads and Streets 2019
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) 2009
- The Planning System and Flood Risk Management 2009 (including the associated Technical Appendices)
- Architectural Heritage Protection Guidelines for Planning Authorities 2004

5.2. Westmeath County Development Plan 2014-2020

Mullingar along with Athlone and Tullamore are referred to as linked Gateway Towns within the Midland Regional Planning Guidelines 2010-2022 and within the NSS 2002, based on prioritising development in their strategic locations. The Gateway

Town of Mullingar is the subject of a Local Area Plan which is set within the policy Framework provided for in the County Development Plan.

Conservation

Section 5.23 refers to ACA's. This includes Millmount Road.

Section 5.24 refers to Built Heritage Policies & Objectives for protection of the character of Protected Structures and ACA's and these include reference to the 'Architectural Heritage Protection Guidelines for Planning Authorities, 2004'.

Policies P-BH1 to P-BH8 relate.

Volume 5 provides the Record of Protected Structures.

Section 5.4 – Natura 2000 Network

Local Area Plans

Reference is made to the Local Area Plans where it is noted that more specific recommendations may be adopted. It is provided that should any conflict arise between the plans the Development Plan shall take precedence. Regard is also had to the role of local area plans in the 'Sustainable Residential Development in Urban Areas 2009'.

5.3. Mullingar Local Area Plan 2014-2020

Land use Zoning

The site is within the Existing Residential area, with the backland site to the rear 'Proposed Residential' all within the LAP boundaries of Mullingar. Section 10.2 provides the Land Use Zoning Objectives.

O-LZ1: To provide for residential development, associated services and to protect and improve residential amenity.

This Objective covers both new and established residential areas.

The Royal Canal Greenway which is part of the National Cycle Network is to the east.

Note the site to the rear is not listed as an Opportunity Site on Map 4.2

Conservation - Character Areas

Section 4.6.2 refers to Town Centre Architectural Conservation Areas and this provides that the town has designated a total of four ACA's and this includes Millmount Road. (These are mapped in Volume 2 of the Plan).

The site is located within the Millmount/Sunday's Well Character Area – Section 4.7.4 refers. Policies P-CA1 to P-CA4 refer.

Section 7.10.6 refers to the Built Heritage of Mullingar including reference to the Millmount Road ACA. Section 7.11 to Built Heritage Policies and Objectives. Policies PBH1 to PBH7 refer. Of note mentioned in the Council's refusal are:

PBH3 – To preserve and protect Mullingar's built environment in terms of streetscapes, individual buildings and features of historical architectural or artistic interest.

PBH7 – To protect the character of designated Architectural Conservation Areas (ACAs) including the public realm area associated therewith and to resist inappropriate development that would detract from the heritage value of these areas.

Section 9.19.1 to Protected Structures

Section 9.19.4 – refers to protection of ACAs's and Townscape and provides the criteria for development including the need to protect or enhance the setting of the ACA.

Natural Heritage

Policies PHN1 – PHN4 refer. This includes protection of wildlife corridors along the Royal Canal etc. and restricting development that will have a negative impact on these Natural Heritage Areas.

Archaeology

Section 7.13 provides the Archaeology Policies & Objectives. Policies P-ARC1 to P-ARC4 refer.

5.4. Natural Heritage Designations

There are several Natura 2000 sites within a 15km radius of this appeal site. The nearest to the site are:

- Wooddown Bog SAC (Site Code: 002205) which is located c.4km to the east.
- Lough Ennell SPA (Site Code: 004044) which is located c.3km to the south west.
- The Special Area of Conservation: Lough Owel SAC (Site Code: 000688) which is located c.5km to the north west.
- Lough Owel SPA (Site Code: 004047) which is located c.5km to the north west.
- Lough Ennell SAC (Site Code: 000685) which is located c.4km to the south west.
- Scragh Bog SAC (Site Code: 000692) which is located c.6km to the north west.

5.5. EIA Screening

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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

Downey Planning, Chartered Town Planners, have submitted a First Party Appeal on behalf of the Applicants. They provide an Executive summary/overview of the proposed development. Their Grounds of Appeal include the following:

Planning History and Rationale

- They provide a description and rationale for the proposed development. They also provide details of the history of the access and have regard to right-of-way and legal issues.

- The Planning History of the subject site as they have outlined, clearly shows an acceptance of the access road and the entrance to Lakeview House which has been granted on two separate occasions by the Council.
- This proposal will provide a new vehicular entrance to Lakeview House while removing the unauthorised entrance constructed by the applicant's neighbour on their landholding.
- The proposed access could in the future facilitate the development of the lands to the rear zoned 'new residential'.

Legal Issues

- Details are provided of the history of landownership issues relative to the site.
- The gates, walls and piers to Lakeview were constructed c. 2015, without the benefit of planning permission or consent of the landowners.
- They note that there is a dispute relative to ownership issues relative to the existing entrance and right of way resulting in legal proceedings.
- They submit that Fig. 6 shows the original entrance to Lakeview House, now serving the newly constructed House to its rear and the unauthorised entrance subject to this appeal.

Design Issues

- They provide a description of the proposed development and note that the design of the proposed access road has been carefully considered with high-quality materials proposed. The proposed wall and railing are to be replicated to match the existing wall and railing, providing for a visually appealing streetscape.

Access and Traffic

- NRB Consulting Engineers Ltd. carried out a Transport Assessment Report and an Independent Stage 1 Road Audit as part of the planning application to ensure that no issue with road safety would occur as part of the proposed development. It was found that the replacement of an existing entrance with a revised access road and vehicular entrance will improve traffic safety at this location, will not have an impact on traffic levels in the area, will not impact on

the Auburn/Millmount junction and will future proof access to lands to the rear of the subject site which may be developed in the future under a separate application.

Reason for Refusal no.1

- The subject application is proposing an access road previously agreed under Reg.Refs.06/5238 and 08/5238. The access route and entrance proposed in these applications is at the same location as the one subject to this appeal.
- They submit that the current application proposed the same development which has already been deemed to be in accordance with Policy PBH3 and Policy PBH7 of the Mullingar Town Plan.
- It is unclear why the sudden concern for the character and setting of Lakeview House and Hawarden Villa has been raised, when the status of the ACA remains the same.
- It is noted that while Lakeview House is listed on the NIAH register, its protected structure status was removed by the Council under their current Draft Development Plan. Hawarden Villa is listed in the CDP as a PS of local importance, while Lakeview House was listed as a structure of regional importance.
- They submit that the existing unauthorised entrance and gates detract from the setting of Lakeview House and Millmount House.
- The planning policies pertaining to the area have not changed since the 2006 permission, but the PA are applying conflicting policies to the subject site.

Reason for Refusal no.2

- NRB Consulting have carried out a full assessment of the area and have compiled a detailed response as set out in Appendix 1 of this appeal.
- It has been set out clearly that this application is to provide an access road which will allow for the provision of a single vehicular access point to Lakeview House and a pedestrian access points to Hawarden Villa and Lakeview House.

- The access route has been designed to accommodate future development to the rear should these lands ever be developed.
- As outlined in the NRB Consulting Engineers report, there will be no increase in traffic levels as the application is for the relocation of an existing vehicular entrance only.
- They have also carried out a Stage 1 Road Safety Audit to ensure that the proposal will not result in traffic hazard. NRB have shown that the current proposal will not have a negative impact on the traffic safety of roads in the area.
- The traffic levels generated by lands to the rear will be assessed as part of a future application, should it be forthcoming. Any junction upgrades will form part of any future development of lands at the rear.

Reason for Refusal no. 3

- Appendix 1 provides a detailed rebuttal of this refusal reason compiled by NRB Consulting Engineers.
- This proposal is simply for the relocation of an unauthorised domestic entrance with no increase in use.
- The applicants seeking to relocate an existing domestic entrance should not be burdened with the upgrading of a junction to facilitate a commercial development.
- They submit that the replacement of an existing entrance with a more considered one is not premature and will not pose a risk to road users or traffic safety.

Conclusion

- They have regard to the merits of the proposal and request the Board to grant permission and consider that the proposed development is fully in accordance with the proper planning and sustainable development of the area.

6.2. Planning Authority Response

There is no response from the Planning Authority on file.

6.3. Observations

An Observation has been received from The Planning Partnership by David and Mary Zumerchik of Lakeview House, Millmount Road, Mullingar. This includes the following:

- This submission is made in full support of the current process to achieve a permission for the proposed development as referred.
- However, they find it necessary to put on record that there are factual inaccuracies and representations as to the truth of the matters of private law that remain in dispute between their clients and the Appellants.
- The existing entrance to Lakeview House maintains the position of the in dispute between the Observers and the Appellants.
- Reference made throughout the appeal to ‘unauthorised entrance’, ‘without the benefit of planning are false and misleading.
- To their knowledge, Enforcement Action has not been taken by the Planning Authority. No record exists of the planning register of ‘unauthorised development’.
- The current functioning entrance and the proposed entrance/access relate to the historic, originating and existing entrance point for Lakeview House, maintained in perpetuity since its construction date c. 1855 – NIAH & the attached Geohive Mapping at Appendix A confirms same.
- The disputed ownership and rights of way presented in the Appeal (section 3.1 refers) are not helpful to the Board’s determination of the proposed development and where they are misstated or factually incorrect, they are obliged to make observations on same.
- Historic records, relevant planning history and local knowledge would suggest that the terms referred to as ‘*agricultural entrance, unauthorised entrance* and

original entrance at Lakeview House are factually incorrect for the purposes of considering this appeal.

- They dispute that there was any agreement about installing new gates. There is neither an intended entrance nor an original entrance as referred to in *Figure 6* of the Appeal, on the southern side of the Observers property.
- They ask the Board to consider this application on its merits, the existing entrance has been established as the sole entrance since its construction in c.1855.
- This appeal should be dealt with on planning considerations alone and should not be fettered by inaccuracies. They endorse the overall tenor of the First Party Appeal to seek permission for an enhanced entrance to serve existing residential property.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. As noted in the Mullingar Local Area Plan 2014-2020, the site is located within the residential zoning where the land use zoning objective O-LZ1 seeks: *To provide for residential development, associated services and to protect and improve residential amenity.* The priority is to improve the quality of existing residential areas and to strengthen the provision of local community services and amenity. Therefore, the proposal is acceptable in principle provided it would not detract from and would protect and improve residential amenity and the character of this sensitive area.
- 7.1.2. The site is located between two existing residential dwellings 'Hawarden Villa' and 'Lakeview House'. Hawarden Villa a protected structure (ref.019-096) bounds the application site to the north and Lakeview House (NIAH ref.15310092) is located along the southern boundary of the proposed new road. The application site is located within Millmount Road ACA. A protected monument WM019-058 is located c.40m from the application site. The Royal Canal is located c.60m east of the proposed new access road. Therefore, the setting of the site, relative to these sensitivities is of note.

- 7.1.3. The First Party provide that the proposed development will provide for an improved entrance to Lakeview House, it will remove an unauthorised development and provide for a more appropriate setting and boundary treatment along Millmount Road. They contend that the proposed development will also allow for the future proofing of the development of lands to the rear of Hawarden Villa and Lakeview House. Therefore, they consider that the proposed access could in the future facilitate the development of the lands to the rear zoned 'new residential'.
- 7.1.4. Regard is had to the issues raised including relative to the planning history and legal issues and to the impact on the character and amenity of the area relevant to the setting of the Protected Structures and the ACA. Also, to road safety issues and to the Council's reasons for refusal in this Assessment below.

7.2. Land Ownership issues

- 7.2.1. A letter regarding legal ownership of the house and lands known as Lakeview House, Millmount Road, Mullingar has been included with the documentation submitted with the application. This 'Letter of Consent' is issued to advise that Christian and Isena Pohl are in a position to lodge an application for development of the said lands (indicated green on the Ownership Drawing Map) in accordance with Article 22(2) of the Planning and Development Regulations 2001(as amended). This also provides that this consent in the event of permission being granted, shall not be construed as agreement to transferring/carrying out of works and that this shall be subject to separate negotiation between the parties.
- 7.2.2. The First Party Appellants provide details relative to a dispute concerning ownership issues and right of way and note that this has resulted in legal proceedings. They provide details of the planning history and of purchase of lands from the previous owners (Section 3.1 of their Appeal Statement refers). Also, that a right of way was granted by the Applicant to the Neighbour for the purposes of them gaining access to their share to the rear of Lakeview House. They provide details of Folio numbers. They note that the applicants are not developers and purchased the land to secure the privacy of their current home. They reference various Figures including Fig. 6 which they provide shows the original entrance to Lakeview House now serving the

newly constructed house to the rear and the unauthorised entrance which is the subject of this appeal.

7.2.3. The Observers, who are the owners of Lakeview House provide that reference made throughout the appeal to 'unauthorised entrance', 'without the benefit of planning are false and misleading. They provide that the existing entrance to Lakeview House maintains the position of the originating historic entrance (since its construction in c.1855 - NIAH & attached Geohive Mapping), as referred to in their Appendix A, confirms the same. They submit that the entrance the subject matter of the Appeal is and was at all material times the established entrance to Lakeview House. That it had become very overgrown by hedging prior to the renovation of Lakeview House and the gate structure prior to the renovation. In addition, that reference to disputed ownership and rights of way are not helpful and are misstated or factually incorrect. They provide that while they support the application it should be dealt with on material planning considerations alone and not be fettered or confused by inaccuracies.

7.2.4. There appears to be some lack of clarity on these issues as presented. It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: *"A person shall not be entitled solely by reason of a permission under this section to carry out any development"*. Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: *"The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts..."*

7.3. **Description and Rationale for Proposed Development**

7.3.1. The subject lands are located on the eastern side of Millmount Road, Mullingar between the existing residential dwellings at 'Harwarden Villa' and 'Lakeview House', both Protected Structures. The lands extend to approx.0.0635 and are accessed off Millmount Road. Part of the lands are currently utilised as an entrance to the existing dwelling at Lakeview House with gates, walls and piers in place whilst the remaining lands are currently utilised as green space.

- 7.3.2. The proposed vehicular access road from Millmount Road (in a similar location to the existing entrance to Lakeview House) is to serve the future development of lands to the rear of Hawarden Villa and Lakeview House. The access road is proposed to provide a 5.5m carriageway to serve future development of the lands to the rear for residential dwellings. It is submitted that permission is being sought as the current entrance gates serve an existing dwelling and will not sufficiently serve the rear development lands which could accommodate a development of c.18-20 residential dwellings. An indicative layout of this backland development, albeit on residentially zoned lands, is shown. It is provided that the development of these lands will be subject to a separate future application and do not form part of the current application.
- 7.3.3. However, it is submitted that this application is solely seeking permission for an access road that would be of a scale and size to sufficiently accommodate and serve the future development of the rear lands for residential development whilst providing new vehicular and pedestrian entrances to existing dwellings. The lands to the rear of Hawarden Villa are zoned 'new residential' in the current Westmeath CDP, and that it is the intention that these lands will be developed for residential purposes in the future. This proposal is also seeking permission for relocation of the existing vehicular access to Lakeview House and pedestrian access for this house and Hawarden Villa, all from this new access road.
- 7.3.4. The First Party provide that the proposed access road could facilitate such infill development, while removing the 'unauthorised' entrance constructed by the applicant's neighbour on their landholding. They provide that the design of the proposed access road has been carefully considered and high-quality materials are proposed with the proposed wall and railing (replicated to match the existing wall and railing) providing for a visually appealing streetscape.
- 7.3.5. They refer to Reg.Refs. 06/5238 and 08/5238 where permission was granted by the Council for an access road from Millmount Road along the northern boundary of Lakeview House and to provide a new entrance into Lakeview House from this new road, in a similar location as the current proposal. They provide that the subject application is proposing the same development.

- 7.3.6. While their reference to the planning history is noted, the development cited in the more recent application Reg. Ref.08/5238 was refused by the Board in Ref. PL25M.233395 for 4no. reasons. It must be noted that the current proposal represents a different scenario and is being considered *de novo* on its merits, having regard to the locational context and to current policy and guidelines.

7.4. Access and Traffic

- 7.4.1. The lands extend to approx. 0.0635 ha and are accessed off Millmount Road, which connects the lands to the centre of Mullingar via the R146 which further connects the lands to the N4 (junction 15). As the site is within the 50kph speed limit, the *Design Manual for Urban Roads and Streets* (DMURS) is applicable here. It is provided that the simple priority junction created onto the Millmount Road in a stagger arrangement with the junction of Auburn Road to the south is DMURS compliant. Also, that at this juncture it is submitted that the access road to 1no. dwelling would not have any impact on the road network and would not require any additional work.
- 7.4.2. A Transportation Assessment Report (inc. Stage 1 Road Safety Audit & Designer Feedback Form) has been compiled by NRB Consulting Engineers. This provides a discussion of the impact associated with the construction of the proposed access to serve an existing dwelling plus future residential development of lands to the rear for 18 houses on the site at Millmount Road, Mullingar. The Report and appended Junction Design Drawings were prepared in response to the request for Further Information by Westmeath County Council.
- 7.4.3. It is submitted that this assessment is based on comprehensive full movement Weekday AM and PM Peak Classified Turning Movement Surveys of the adjacent affected road network, carried out in February 2020 during normal school term. These surveys included pedestrian and cyclist movements at the junction. Traffic Modelling Data including TRICS and PICARDY have been used. An assessment is made of the impact on the Opening Year 2023 together with an assessment of the Design Year 2038, with all development traffic considered to be 100% new to the network. It provides that the proposed future development of 18 houses results in very low levels of additional traffic network flows.

- 7.4.4. They have undertaken an appraisal and redesign of the proposed vehicular access junction onto Millmount Road and the adjacent Auburn Road/Mullingar Road priority controlled junction. The work included the commissioning of an Independent Stage 1 Road Safety Audit (RSA) of the public road elements of the redesign. The RSA provides that to accommodate the additional road usage associated with the longer-term development, it is proposed to upgrade the junction of Auburn Road/Millmount Road as part of the future planning application for these lands. The main works at the Auburn Road junction involved the narrowing of the junction mouth and the provision of an uncontrolled pedestrian crossing. They make a number of recommendations including relative to the existing cycle lane on Millmount Road to the south of Auburn Road junction. They recommend that the cycle lane road marking be provided up to and across the junction. They note that a separate scheme maybe required to extend the cycle track beyond the junction.
- 7.4.5. It is submitted that the Transportation Assessment Report confirms that there would be negligible traffic impact associated with the proposed subject development. In addition, that the Access Junction and the adjacent future proposed improved Auburn Road junction will operate without any issues during the selected year of opening and the Design Year 15 after opening. That, the Transportation Assessment Report demonstrates that should permission be sought for future development on the lands at the rear, that the width of the road at 5.5m wide is appropriate to accommodate same and that the existing junction can accommodate same. Also, that it demonstrates that there are no significant Operational Traffic, Traffic Safety, Road Capacity, Safety of Road Design that would prevent a positive consideration of their proposal. In addition, that the appended RSA and Designer Feedback Form confirms the acceptability and appropriateness of the proposed redesign. Regard is also had to the traffic data and modelling included in Appendices (A – G) of the Traffic Assessment Report.
- 7.4.6. The comments of the Council's Road Design Section and the concerns of the Municipal District Engineer have been noted. These include that the possible future development of 18no. dwelling would result in the intensification of undesirable traffic movements at this junction (Auburn Road and Millmount Road). They are concerned that there is only 20m of a stagger between central lines of the proposed road and the Auburn Road. Also, that visibility splays are severely compromised in both

directions by existing walls, railings and hedges which would be within the curtilage of protected structures. They have regard to the F.I submitted including the Transportation Assessment which provides traffic flow projections for the possible future development of 18no. units at the rear of the site. They provide that there is no requirement for this proposed junction as the existing entrance, notwithstanding the inadequate visibility spaces, is adequate for the existing dwelling. In addition, that the F.I does not address the sightline issue at the existing/proposed entrance on to the Millmount Road.

- 7.4.7. Appendix 1 of the First Party Appeal includes a Response by NRB Consulting Engineers to refusal reasons nos. 2 and 3, which relate to prematurity and road safety/traffic hazard issues. This provides that the Auburn Road/Millmount Junction improvement works is an indicative scheme and does not form part of the current application. That it is prepared to show how the development of the lands at the rear can be accommodated. They provide that the independent RSA and Designer Feedback Form confirms the acceptability and appropriateness of the design. Also, that the proposal is in compliance with DMURS relative to sightlines, footpaths, road widths as well as road markings and signage to significantly improve the existing access situation and road safety at the access. They submit that it has been clarified that the proposed access works are not premature as they provide improved access to the single dwelling and the lands at the rear while also future proofing the layout for the potential future development of the lands to the rear.
- 7.4.8. It is important to note that the current application is seeking permission solely for a 5.5m wide road with access to 1no. dwelling. This application represents the future proofing of the width of the potential access road to facilitate a future application. The development of residential at the rear will be subject to a subsequent application at which stage the works to facilitate the rear lands will be required. However, it is noted that this is an indicative scheme and does not form part of the current application. In view of central location and the density standards, it could be that a higher density of residential development will be proposed in a future application relative to the backland site at the rear. It could be envisaged that this proposal is not necessary, relative to the current scenario and would create an ad hoc piecemeal development and is premature pending the submission of an application for the development at the backlands at the rear and an upgrade of the junction.

7.5. Impact on Character and Amenity of the Adjoining Properties and of the Area

- 7.5.1. Currently part of the subject lands are being utilised as an entrance to the existing dwelling at Lakeview House, (Protected Structure), with gates, walls and piers in place whilst the remaining lands are currently used as on-site parking area and green space at the rear. The existing entrance gates are to be relocated and re-used within a new proposed vehicular access to Lakeview House. The existing wall and railing are to be replicated across both boundaries (i.e the northern boundary and the southern boundary) to the lands at Hawarden Villa and Lakeview House. It is also proposed to provide a pedestrian entrance to the lands at Hawarden Villa from the access road. In addition, a pedestrian access is proposed to Lakeview House from the corner of Millmount Road and the proposed new access road. Therefore, the proposed access route is located between two Protected Structures.
- 7.5.2. The First Party submit that the existing unauthorised entrance and gates has materially altered the setting and appearance of Lakeview House and is not in keeping with the existing historic low wall and railings along Millmount Road and detracts, from its setting. In addition, that it is a modern pastiche insertion. The Observers provide that the entrance has been in situ and has been the material entrance to Lakeview House since it was constructed c.1855. It has become overgrown by hedging prior to the renovation of the House and the gate structure prior to the renovation was in the form of *Heras* fencing.
- 7.5.3. Section 7.10.6 of the Mullingar LAP 2014-2020 concerns the Built Heritage of Mullingar. This has regard to Protected Structures and to the six Architectural Conservation Areas in the town. The latter includes Millmount Road ACA. Policies P-BH3 and P-BH7, have been noted in the Policy Section above and are concerned to protect Mullingar's built heritage and streetscapes including in the ACA and individual buildings of historical, architectural, artistic interest. I would consider that this proposal as currently presented, would not add to the character of the streetscape and would detract from the curtilage of the Protected Structures on either side of the access route. In particular from the curtilage of Lakeview House. It would not comply with the above architectural heritage policies or enhance the character of the streetscape. As such, it would set an undesirable precedent for this type of premature development to the detriment of the ACA. In my opinion, the

access would be better envisaged, so that it has less of an impact on the streetscape and the curtilages of these properties, as part of any future application for development of the backlands at the rear.

7.6. Screening for Appropriate Assessment

Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that this proposal be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the location of this proposed development within the Millmount Road Architectural Conservation Area, between two Protected Structures known as 'Hawarden Villa' and 'Lakeview House', and its impact on the streetscape and on the curtilage of Lakeview House, it is considered that it would detract from the built heritage and character of the area and be contrary to Built Heritage Policies P-BH3 and P-BN7 of the Mullingar Local Area Plan 2014-2020.
2. There is a lack of clarity in the current application, relative to the need for the proposed development to serve 'Lakeview House'. Reference to the proposal being to serve the future development of the backlands at the rear is considered premature pending an application for such development. Having regard to the documentation submitted and to the locational context proximate to the junction with Auburn Road, the Board is not satisfied that it has been demonstrated that the design of the proposed development would not lead to road safety issues or result in traffic hazard. As such it is considered that the proposal would be premature, would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

7th of April 2021