



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317233-23

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<b>Development</b>	Construction of two houses, connection to public sewers and services, boundary walls, public lighting, footpaths together with ancillary site works
<b>Location</b>	Gleann na Fhia, Gurteenroe, Millstreet Road, Macroom, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	23/04441
<b>Applicant(s)</b>	Milaqua Ltd
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Milaqua Ltd
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> November 2023
<b>Inspector</b>	Gary Farrelly

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 0.04 hectares and is located within the townland of Gurteenroe, approximately 2km northwest of the town centre of Macroom, County Cork. Access to the site is via Millstreet Road (R-582). The Macroom Bypass (National Road N-22) is located approximately 300 metres north of the site.
- 1.2. The site forms part of a housing estate of 50 residential units, approved under application ref. 19/6045. The site is bounded by hedgerow and a stream (Ardnacrushy Stream) to the west and an existing 2 metre high boundary wall to the south, beyond which is the Lios na Fea housing estate. The site is located opposite House number 24 approved under application ref. 19/6045.
- 1.3. A large portion of the estate has been completed with construction activity taking place to the northern part of the estate, in the area of proposed house nos. 39-50. The subject site is currently being used as a construction compound.

## **2.0 Proposed Development**

- 2.1. Permission is sought to construct 2 no. 3-bed semi-detached houses. Each proposed unit has a stated floor area of 105.64sqm and is to be two storey to a ridge height of 8.1 metres. The external finishes will comprise of smooth render and selected stone to the walls with selected slate finish to the roof. The finished floor level of the development is outlined as 89.775m. Boundary treatment is proposed to be a 1.8 metre high wall on the northern and western boundaries. It is proposed to connect to the public wastewater and water mains. A Part V exemption certificate, granted by the Local Authority, accompanies the application.
- 2.2. The proposed development is located within Flood Zone A as designated under the Cork County Development Plan 2022-2028. A Flood Risk Assessment (dated December 2022) accompanies the application and concludes that the site is not at risk of flooding nor will it increase flood risk elsewhere.

## 3.0 Planning Authority Decision

### 3.1. Decision

Cork County Council (The Planning Authority) refused to grant permission on 4<sup>th</sup> May 2023 for the following reasons:

1. The proposed development would encroach on lands that have been designated as public open space to serve the overall housing estate. The location and siting of the proposed development would have an unacceptable material impact on the permitted residential scheme under Reg. Ref. 19/6045. In particular the quality and quantity of public open space serving the permitted scheme would be detrimentally compromised resulting in substandard public open space serving the overall estate. The proposed development would therefore be contrary to policy objectives GI14-4, GI 14-6, ZU18-9 and MM-GO-05 of the Cork County Development Plan 2022.
2. Having regard to the pattern of existing and permitted development in the immediate vicinity, the proposed development would be injurious to occupiers of residential units to the east by virtue of the insufficient separation distances resulting in an overbearing impact and unwarranted overlooking. The proposed development would therefore be contrary to policy objectives PL 3-5 and ZU 18-9 of the Cork County Development Plan 2022.

### 3.2. Planning Authority Reports

#### Planner's Report

- The assessment considers the flooding implications on the site with the site located in Flood Zone A as per the Cork County Development Plan 2022-2028. An analysis of the flood risk assessment submitted is undertaken having regard to the hydraulic calculations concluding that the site is located outside the 1% and 0.1% flood extent and thus located within Flood Zone C and unlikely to increase flood risk elsewhere.
- The report concludes with a recommendation that permission should be refused, firstly due to the development having an unacceptable material impact on the scheme permitted under ref. 19/6045 in terms of the quality and quantity

of public open space and secondly due to the development having an overbearing impact and unwarranted overlooking of residential units to the east by insufficient separation distances. This recommendation is endorsed by the Senior Executive Planner.

#### Other Technical Reports

- Area Engineer's Report (dated 14<sup>th</sup> April 2023) – No objection subject to conditions.
- Public Lighting Report (dated 6<sup>th</sup> April 2023) – No objection subject to conditions.
- Estates Report (dated 11<sup>th</sup> April 2023) – No objection subject to conditions of ref. 19/6045.
- Liaison Office (dated 3<sup>rd</sup> May 2023) – No comment.

### **3.3. Prescribed Bodies**

- Irish Water has no objection subject to conditions.
- Inland Fisheries Ireland recommends conditions.

### **3.4. Third Party Observations**

A single submission was received to the Planning Authority outlining concerns that the development could undermine the ground and collapse into the river. Concern was also raised regarding proximity to an existing filtration tank and historical disposal of waste into the river.

## **4.0 Relevant Planning History**

### Ref. 19/6045

Cork County Council granted permission on 20<sup>th</sup> July 2020 for a housing development comprising of 50 residential units, new vehicular entrance off the Millstreet Road (R582) storm and surface water sewers including attenuation system, public lighting, boundary walls, footpaths, open spaces together with all other ancillary site works.

*Site approximately 180 metres south-east of subject site (within Lios na Fea estate)*

Ref. 18/5364 (An Bord Pleanala ref. 303626-19)

An Bord Pleanala granted permission on 24<sup>th</sup> May 2019 (after third party appeal to Cork County Council's notification to grant) for 2 no. residential units, new entrances together with all ancillary site works.

## **5.0 Policy Context**

### **5.1. Development Plan**

Cork County Development Plan 2022-2028

The site is located within the settlement boundary of Macroom on lands zoned 'Existing Residential/Mixed Residential and Other Uses'.

#### Objective ZU 18-9 Existing Residential/Mixed Residential and Other Uses

The scale of new residential and mixed residential developments within the Existing Residential/Mixed Residential and Other Uses within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding area. Overall increased densities are encouraged within the settlement network and in particular, within high quality public transport corridors, sites adjoining Town Centres Zonings and in Special Policy Areas identified in the Development Plan unless otherwise specified, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area. Other uses/non-residential uses should protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged.

#### Objective GI14-4 Recreation and Amenity

c) Ensure the protection, and seek the enhancement and wise management of existing recreational facilities and public open space, and ensure that all new developments make adequate provision for recreational and amenity facilities in accordance with the requirements of the Council's Recreation and Amenity Policy (Interim) and any successor policy and having regard to the Council's policy regarding the management of Green Infrastructure assets.

### Objective GI14-6 Public/Private Open Space Provision

a) Public Open Space within Residential Development shall be provided in accordance with the standards contained in Cork County Council's Interim Recreation & Amenity Policy (2019) and any successor policy, the "Guidelines on Sustainable Residential Development in Urban Areas" and "Making Places : a design guide for residential estate development. Cork County Council Planning Guidance and Standards Series Number 2".

b) Promote the provision of high quality, accessible and suitably proportioned areas of public open space and promote linking of new open spaces with existing spaces to form a green infrastructure network

### General Objective for Macroom (Volume 3)

MM-GO-05

The green infrastructure, biodiversity and landscape assets of Macroom include the Sullane River and associated woodland and wetland habitats as well as other green infrastructures in the town. New development should be sensitively designed and planned to provide for the protection of these features and will only be permitted where it is shown that it is compatible with the requirements of nature conservation directives and with environmental, biodiversity and landscape protection policies as set out in this plan. Local initiatives including the production of the Macroom Pollinator Plan are encouraged and supported in the plan.

## **5.2. National Policy**

- Project Ireland 2040 – National Planning Framework and National Development Plan 2021-2030
- Climate Action Plan 2023

## **5.3. Regional Policy**

- Regional Spatial and Economic Strategy for the Southern Region

## **5.4. National Guidance**

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

- Best Practice Urban Design Manual (2009).
- Sustainable and Compact Settlements Guidelines for Planning Authorities Draft for Consultation (August 2023)
- The Planning System and Flood Risk Management Guidelines (2009)

## 5.5. Natural Heritage Designations

The subject site is not located within any designated site. The site is located approximately 2km north of the Gearagh Special Area of Conservation (SAC) (Site Code 000108) and the Gearagh Special Protection Area (SPA) (Site Code 004109) (*distance measured on National Parks and Wildlife Service Protected Sites Map Viewer*). This is also designated as a proposed Natural Heritage Area (pNHA).

## 5.6. Environmental Impact Assessment (EIA) Screening

Having regard to the nature, size and location of the proposed development, comprising the construction of two residential dwellings in a suburban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Refer to Appendix 1 regarding this examination.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A First Party Appeal was lodged to An Bord Pleanála on 31<sup>st</sup> May 2023 opposing Cork County Council's decision to refuse the application. The grounds of appeal can be summarised as follows:

- In terms of densities the application on the subject site should be considered as a whole with the existing permission for 50 houses on the 1.9ha site. Density should be acceptable. Higher density was requested on previous application.
- Planning Authority has not taken into account the Sustainable Residential development guidelines and has not appreciated the proximity of the site to the bypass;

- Area was previously zoned passive open space under the 2016 County Development Plan.
- The development respects the existing building line of the neighbouring estate;
- Disputes Local Authority's calculation of public open space area.
- No objection or observation made by any residents within the estate.
- Development will make a valuable home for two families in a housing crisis.
- Applicant has confirmed that they have no objection in providing a 6 metre by 6 metre local play area to further enhance the amenities of the estate and would accept a condition.

## **6.2. Planning Authority Response**

The Planning Authority response is that all the relevant issues have been covered in the technical reports forwarded to the Board and have no further comment to make.

## **6.3. Observations**

None

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, after an inspection of the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues on this appeal are as follows:

- Zoning
- Public Open Space
- Planning History
- Residential amenity – Separation Distances / Overlooking
- Appropriate Assessment (AA) Screening

### **Zoning**

7.2. The subject site is located within the development boundary of Macroom and on lands zoned as 'Existing Residential/Mixed Residential and Other Uses' within the Cork



County Development Plan 2022 (CDP). I note that the subject site was previously zoned as Passive Open Space within the Macroom Development Plan 2009-2015. I consider the proposed development acceptable in principle.

### **Public Open Space**

- 7.3. The subject site was designated as a green open space area granted under the previous permission for the estate (application ref. 19/6045) and measures c. 400sqm.
- 7.4. It is clear that the Planning Authority (PA) and the Appellant have a difference of opinion with regards to the provision of open space within the overall estate in quantitative terms. A drawing has been provided by the Appellant (dwg. No. SS\_01) which illustrates the location of all open space within the estate. The drawing indicates that 0.31ha of open space will remain if the proposed development proceeds. I note that this equates to c. 16% of the total area of the estate.
- 7.5. Having inspected the site, I consider that the c. 400sqm subject site will represent an area of high quality, functionable area of open space which will be adequately overlooked by Unit No. 24. If this development is to proceed I note that c. 3100sqm of open space within the estate would remain. However, I note that a large portion of this open space will be incidental. Therefore, I consider the loss of this 400sqm of usable open space to be material.
- 7.6. Furthermore, I consider that this development, if granted, on an area of designated green open space agreed as part of a previous permission, would set an undesirable precedent for further development and further encroachment into open space areas. It is my view that such loss of usable open space would be seriously injurious to the amenities of existing and future residents within the estate, notwithstanding the fact that there have been no third party submissions. I consider permission should be refused in this regard.

### **Planning History**

- 7.7. The Board should note that permission for 2 no. residential units, approximately 180 metres southeast of the subject site, within the Lios na Fea housing estate, was granted by An Bord Pleanála in 2019 (ref. 303626-19). However, in this case, the site was originally designated for use as a creche/preschool facility as part of the wider

estate. Although each case is assessed on its own merits I consider that the cases are not similar.

### **Residential Amenity – Separation Distances / Overlooking**

- 7.8. The Planning Authority considers that the proposed development would be injurious to occupiers of residential units to the east by virtue of insufficient separation distances, resulting in an overbearing impact and unwarranted overlooking. I note that the residential unit in question is house number 24 of application ref. 19/6045. After inspecting the drawings of ref. 19/6045 I note that windows serving habitable spaces on the ground and first floor of unit no. 24 face towards the subject site. The private amenity space of unit no. 24 is bounded by a 2 metre high concrete block wall along its west boundary. The Planning Authority has calculated the distance between the front boundary of the subject units and the side boundary of Unit No. 24 to be c. 14 metres.
- 7.9. On the Proposed Site Layout Plan (Dwg. No. OS-01 @ 1:500) I have measured the distance from the front wall of the proposed units to the western elevation of house number 24 as c. 16 metres. The distance from the front wall of the proposed units to the boundary wall of Unit 24 is c. 14-15 metres.
- 7.10. I consider that c. 16 metres is adequate distance to ensure no significant overlooking/loss of privacy will occur on the habitable spaces within Unit 24. Furthermore, having regard to the c.14-15 metre distance and to the 2 metre high boundary wall, I am satisfied that no significant overlooking will occur on the private amenity space of Unit 24. Furthermore, I note the distances would be in accordance with SPPR 1 of the Guidelines on Sustainable and Compact Settlements (August 2023) which are currently at draft stage. I consider that the separation distances are sufficient, the development will not result in an overbearing impact and unwarranted overlooking and will not be contrary to Objective ZU18-9 of the CDP in this regard.
- 7.11. I note that the Planning Authority references Objective PL 3-5 within the second reason for refusal, however, this appears to relate to rural placemaking within rural villages and rural areas. I note that Macroom is designated as a town within the CDP and therefore it is my view that this policy objective is not relevant in this case.

### **Appropriate Assessment (AA) Screening**

- 7.12. The subject site is not located within any European Site. The subject site is located approximately 2km north of the Gearagh Special Area of Conservation (SAC) (Site Code 000108) and Special Protection Area (SPA) (Site Code 004109). Having viewed the Environmental Protection Agency AA Mapping Tool I note that there are no hydrological connections or other pathways to these European Sites.
- 7.13. Having regard to the nature and scale of the proposed development in an established suburban area on serviced land and distance to any designated site, I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

## 8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. Having regard to the location of the proposed development on a site of green open space, as designated under permission ref. 19/6045, it is considered that the proposed development would result in a material reduction in the quantity and quality of open space available within the estate. The proposed development would seriously injure the residential amenity of residents and would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Gary Farrelly  
Planning Inspector

21<sup>st</sup> November 2023

## Appendix 1

### Form 1 - EIA Pre-Screening [EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317233		
<b>Proposed Development Summary</b>	Construction of two dwellings with connection to public sewers and services		
<b>Development Address</b>	Gleann na Fhia, Gurteenroe, Millstreet Road, Macroom, County Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)	<b>Yes</b>	<input checked="" type="checkbox"/>	
	<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	<input checked="" type="checkbox"/>		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	
<b>Yes</b>	<input checked="" type="checkbox"/>	<ul style="list-style-type: none"> <li>Class 10(b)(i) Construction of more than 500 dwelling units.</li> <li>Class 10(b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</li> </ul>	Development is for 2 dwelling units. Subject site measures 0.04ha and therefore is well below the 10ha threshold for urban development in other parts of a built up area.
			<b>Conclusion</b>
			No EIAR or Preliminary Examination required
			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

## Form 2 - EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	317233	
<b>Proposed Development Summary</b>	Construction of two dwellings with connection to public sewers and services	
<b>Development Address</b>	Gleann na Fhia, Gurteenroe, Millstreet Road, Macroom, County Cork	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The development is for two dwellinghouses within an established residential area.</p> <p>Removal of topsoil typical to that of housing construction.</p> <p>Typical construction related activities and works.</p>	No
<p><b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The development site measures 0.04 hectares. The size of the development is not exceptional in the context of the existing residential environment.</p> <p>There is no real likelihood of significant cumulative effects with existing and permitted projects in the area. All developments in the area, existing and proposed, are similarly served by public drainage and wastewater systems.</p>	No
<b>Location of the Development</b>	The site bounds the Ardnacrushy Stream. The site is approximately 2km north of the Gearagh Special Area of	No

<p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>Conservation (SAC) (Site Code 000108) and the Gearagh Special Protection Area (SPA) (Site Code 004109). This is also designated as a proposed Natural Heritage Area (pNHA). Surface water and waste water are proposed to be disposed of via the public sewer.</p> <p>The site is located within Flood Zone A as designated under the Cork County Development Plan 2022-2028. A Flood Risk Assessment accompanies the application and concludes that flood waters are confined to the adjoining field to the west of the site, the site is not at risk of flooding nor will it increase flood risk elsewhere.</p>	
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**Conclusion**

<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p><b>EIA not required.</b></p>	<p><del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</del></p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p><del>There is a real likelihood of significant effects on the environment.</del></p> <p>EIAR required.</p>
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Inspector: \_\_\_\_\_

Date: \_\_\_\_\_