



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319382-24

#### Development

The construction of a two-storey medical centre building & service yard, the construction of a two-storey gym & fitness centre building & service yard, the construction of a single storey storage and maintenance building with open covered area for bicycle parking. Along with an access road, parking and all associated services, service connections, landscape, boundary treatment and site development works.

#### Location

Tudor Grove, Killegland, Ashbourne, Co. Meath

#### Planning Authority

Meath County Council

#### Planning Authority Reg. Ref.

23550

#### Applicant(s)

Roseyglow Limited

#### Type of Application

Permission

#### Planning Authority Decision

Refuse permission

#### Type of Appeal

First Party

**Appellant(s)** Roseyglow Limited

**Observer(s)** Sarah Jane Behan  
Brian Brennan

**Date of Site Inspection** 14<sup>th</sup> May 2024

**Inspector** Emma Nevin

## 1.0 Site Location and Description

- 1.1. The appeal site is a parcel of undeveloped land (0.3037 ha.) located in the settlement of Ashbourne, within the Tudor Grove/Tudor Heights residential developments, which comprise mainly of semi-detached two-storey dwellings. Access to the site is to the western boundary, via the access road to Tudor Grove/Tudor Heights, a pedestrian footpath defines this boundary. The northern boundary of the site comprises uneven unmaintained lands, with a partial hedgerow to the eastern boundary. To the south lies St Mary's School, and this boundary is defined by a c. 2-metre-high galvanised fence.
- 1.2. The appeal site slopes in a northerly direction. The prevailing character of the immediate area is established residential with the exception of the school.

## 2.0 Proposed Development

- 2.1. The development consists of the construction of three buildings comprising a two-storey medical centre building and service yard, a two-storey gym and fitness centre building and service yard and a single storey storage and maintenance building with open covered area for bicycle parking.
- 2.2. The proposed development has a total floor area indicated as 590 sq. m.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority refused permission, following significant further information request, on 28<sup>th</sup> February 2024, for the following reasons:

*"1. The area of lands subject to the proposed development appear to be located on lands which were to be preserved as open space and as such the Planning Authority consider that should the development be approved that it would contravene Condition No. 3 of Reg. Ref. 94/1258 (An Bord Pleanála Ref. No. PL 17.096766) which required that, "prior to the occupation of the first dwelling house, the subject site be provided as open space and finished to the satisfaction of the Planning Authority". The Planning Authority further considers that the development, as*

*proposed, would result in the loss of 'open space' lands to be provided for the recreational amenity for the wider Tudor Grove and Tudor Heights housing schemes. Additionally, the Planning Authority consider that permitting the subject development, as proposed, would set an undesirable precedent in terms of non-compliance with planning conditions of previous planning permissions and would therefore be contrary to the proper planning and sustainable development of the area.*

*2. It is considered that the proposed development of 3 no. detached buildings comprising a medical centre building, a two-storey gym & fitness centre building and a single storey storage and maintenance building on a narrow, elongated strip of lands would represent a haphazard, piecemeal development which would constitute a substandard form of development on primarily 'G1' - Community Infrastructure zoned lands which has the zoning objective to 'provide for necessary community, social, and educational facilities' as per the Meath County Development Plan 2021-2027. The Planning Authority is not satisfied that the applicant has adequately justified or provided an adequate rationale for the proposed units on the lands, and it is therefore considered that the subject development, as proposed, would be contrary to the proper planning and sustainable development of the area”.*

### **3.2. Planning Authority Reports**

- 3.2.1. Planning Reports dated 17<sup>th</sup> July 2023 and 28<sup>th</sup> February 2024 have been provided.
- 3.2.2. This planning application was assessed under the Meath County Development Plan, 2021 – 2027, as amended by variations.
- 3.2.3. The original planning report considered it necessary to seek further information on the following items:
  - To submit a revised Site Layout drawing which clearly illustrates the proposed development and the extent of lands indicated for use as open space approved under Reg. Ref. 94/1258 (An Bord Pleanála Ref. No. PL.17.096766) which are located within the red line application boundary.
  - The Planning Authority is concerned that the proposed development, which comprises 3 no. detached buildings, would represent a piecemeal approach to the development of 'G1' zoned lands. The applicant was requested to justify

the 3 no. detached buildings and to demonstrate how the proposed development adheres to the policies and objectives of the Meath County Development Plan 2021-2027.

- To submit detailed landscaping and boundary treatment proposals for the development and clarify the management, maintenance and safeguarding of the northern site boundary with the 'F1' zoned lands.
- To address the concerns of Transportation Planning.
- To address the concerns surrounding surface water drainage and treatment.
- To engage with Uisce Eireann regarding a pre-connection enquiry.
- To submit details in relation to flood risk given that the site is partially located in Flood zones A & B.

3.2.4. It was considered that the further information was significant and therefore new statutory notices were required i.e., newspaper and site notices.

3.2.5. The second planning report was not satisfied with the applicants' response to the further information. In particular in relation to item 1 as follows, *"Based on the information available to the Case Officer, it would appear that the proposed development would impinge, at the very least, on part of the area which was to be reserved exclusively for open space. As such, it is therefore contended that the granting of any planning permission which would result in the loss (minor or otherwise) of lands dedicated for the provision of open space for the Tudor Grove/Tudor Heights residential scheme as per the condition referenced would reduce the recreational amenities that were to be provided for this area and would also result in the setting of an undesirable precedent of the non-compliance with a planning condition of a previous permission on these lands which is unacceptable. Furthermore, it is evident that a long-standing issue has arisen over the completion and use of the land parcel as a whole and it is the contention of the Case Officer that the applicant has not sought to address or clarify these issues as a means to resolve them as part of this application despite appearing to be in the control of the overall lands"*.

The report also considered in relation to the response to item 2 that, *"the Case Officer remains concerned that the proposed development which comprises three*

*detached buildings on a narrow and elongated parcel of lands has not been fully justified. The design rationale is noted however, it is considered that the development of the 3 no. units on this segment of lands and noting the outstanding undeveloped lands to the immediate north would represent a haphazard piecemeal form of development which would not be fully consistent with the 'G1' – Community Infrastructure objective to 'provide for necessary community, social, and educational facilities' as set out in the Meath County Development Plan 2021-2027. The applicant was presented with an opportunity to justify the proposed buildings but has instead sought only to rationalise the design approach rather than their merit in line with the zoning objective”.*

3.2.6. Accordingly, the planners report concluded that the development be refused for the for the reason outlined in Section 3.1.1 above.

3.2.7. Other Technical Reports:

The planning report indicates that the following were consulted during the assessment of the planning application:

- Transportation Department (General): Further information required. Following further information, no objection subject to conditions.
- Transportation Department (Public Lighting): No objection subject to condition.
- Environment: No objection subject to condition.
- Environment (Flooding): Refusal recommended. Following further information, no objection subject to conditions.
- Fire Officer: No report received.
- Conservation Officer: No report received.
- Heritage Officer: No report received.

3.2.8. Prescribed Bodies:

- Uisce Eireann: Further Information requested.
- Dept HLGH (Archaeology): No objection subject to condition.
- An Taisce: No report received.

### **3.3. Third Party Observations**

3.3.1. 1 no. third-party submission was received, the key points raised as follows:

- Previous applications on the lands have been refused in relation to condition of previous planning permission.
- Land is zoned 'F1' open space therefore the proposal contravenes zoning objective.
- Development of medical centre, gym and service yard does not comply with Meath County Development Plan 2021-2027.
- Development would constitute a traffic hazard.
- Land should be developed as a public park/open space for the community.

3.3.2. Following the further information submission five no. further third-party submission was received, the key points raised as follows:

- Proposed development would represent piecemeal development.
- No justification for the 3 no. buildings on the narrow site.
- No justification for the gym and healthcare building which are 'open for consideration' on the G1 zoned land.
- The proposed development would overlook the school site and impact on health and safety of children.
- The site should be used as a 'buffer zone'.
- Insufficient traffic and water service infrastructure which impacts on surrounding area.
- The land is zoned F1 (open space), and the granting of permission would not be in line with zoning objective.
- Issues in area with drainage which will be exasperated with new development.
- There is a school and creche in the locality which will increase traffic impacts.
- Site history informs that land should be developed as a green area. The area is a housing estate, not a commercial zone.

- Developer has not engaged with locals.
- Proposed development is not in keeping with the surrounding area.
- Development will result in increased traffic in locality.
- Proposed entrance will cause a risk to road users and pedestrians.
- Development is not in the correct place. Currently vacant units in Ashbourne and there are a number of gyms.
- Subject land was set aside for green space which has never been developed.
- No further development should be approved in the area until the lands are developed as per original permission.
- Traffic in the area presents a hazard to people.
- Site Notice erection date.
- Proposed development will bring extra traffic to the area which is already over-crowded.
- Proposed entrance is directly adjacent to a pedestrian crossing for a school and would pose a hazard to pedestrians.
- Water pressure would be impeded further from development if approved.
- Proposed development is fragmented and disproportionate to surrounding land uses and zoning.

## 4.0 Planning History

ABP: PL. 17.096766/941258 – Permission granted on appeal to An Bord Pleanála on 21/12/1996 for the erection of 9 pairs of semi-detached two storey houses. An Bord Pleanála omitted Condition No. 2.

- Condition No. 3 of the planning authority grant of permission should be noted which reads “the open space to be provided shall be finished to the satisfaction of the planning authority and agreed in writing prior to the occupation of the first dwelling house”.

ABP: PL.17.246868/AA151349 – Permission refused on appeal to An Bord Pleanála on the 24/10/2016 for the construction of a housing development of 6 no. two storey 4-bedroom, semi-detached houses, extension of the estate road, all associated services, service connections, landscape, boundary treatment and site development works.

- The reasons for refusal stated:

“1. It is considered that the proposed construction of six number dwelling houses on the subject site would materially contravene condition number 3 of Meath County Council’s decision under Register Reference 94/1258 / PL17.096766 which required that prior to the occupation of the first dwelling house the subject site be provided as open space and finished to the satisfaction of the planning authority. The granting of planning permission for the proposed six number dwelling houses would set an undesirable precedent in terms of non-compliance with planning conditions and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development for 6 number dwelling houses on an existing open space area of land, indicated for use as open space in Register Reference 94/1258 / PL17.096766, would be contrary to policy SOC POL 39 and policy SOC POL 42 of the Meath County Development Plan 2013 – 2019 and policy SOC POL 16 of the Ashbourne LAP 2009. Given the absence of any public open space provision in the scheme the proposal would also be contrary to Section 11.2.2.2 public open space provision requirements for residential developments as per the Meath County Development Plan 2013 – 2019 which requires that ‘Public open space shall be provided for residential development at a minimum of 15% of total site area.’ The proposed development would therefore be contrary to the proper planning and sustainable development of the area”.

ABP-300097-17/AA170958 – Permission refused on appeal to An Bord Pleanála on 22/02/2018 for the construction of a housing development of 6 no. two storey, 4-bedroom, semi-detached houses, open space provision, extension of the estate road, all associated services, service connections, landscape, boundary treatment and site development works.

- The reason for refusal stated:

“1. It is considered that the proposed construction of six houses on the appeal site would contravene materially condition number three attached to the permission for development granted under planning register reference number 94/1258, (An Bord Pleanála reference number PL17.096766), which required that, prior to the occupation of the first dwellinghouse, the subject site (and adjoining lands) was to be provided as open space and finished to the satisfaction of the planning authority. The granting of planning permission for the proposed six houses would result in a permanent loss of lands for ‘open space’ and a consequential permanent loss of recreational amenity for the wider Tudor Grove and Tudor Heights development which the open space was intended to serve. It is considered that permitting the development would reduce the recreational amenities for the area to an unacceptable level and would also set an undesirable precedent in terms of non-compliance with key planning conditions. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development comprising six houses on a site which was indicated for use as ‘open space’ in planning permission register reference number 94/1258 (An Bord Pleanála reference number PL17.096766) would be contrary to the provisions of the Meath County Development Plan 2013 – 2019, as set out in Policy SOC POL 39, which seeks ‘to resist the loss of existing public open space, unless alternative recreational facilities are provided in a suitable location’ and in Policy SOC POL 42 which seeks ‘to maintain free from development lands that are subject of a deed of dedication or identified in a planning permission as open space to ensure the availability of community and recreational facilities for the residents of the area’. These policies are considered to be reasonable. The proposed development would result in the loss of this area of open space, and would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area”.

ABP-303556-19/AA181312 – Permission refused on appeal to An Bord Pleanála on 04/06/2019 for the removal in part of condition no. 3 of Planning Registry Ref. No. 94/1258 (An Bord Pleanála appeal reference number PL 17.096766) insofar as it

relates to the application site. (B) The construction of a housing development of 6 no. two storey, 4-bedroom, semi-detached houses, open space provision, extension of the estate road, all associated services, service connections, landscape, boundary treatment and site development works.

- The reasons for refusal stated:

1. It is considered that the proposed development would contravene materially condition number three attached to the permission for development granted under planning register reference number 94/1258, (An Bord Pleanála reference number PL17.096766), which required that, prior to the occupation of the first dwelling house, the subject site (and adjoining lands) was to be provided as open space and finished to the satisfaction of the planning authority. The granting of planning permission for the proposed six houses would result in a permanent loss of lands for 'open space' and a consequential permanent loss of recreational amenity for the wider Tudor Grove and Tudor Heights development which the open space was intended to serve. It is considered that permitting the development would reduce the recreational amenities for the area to an unacceptable level and would also set an undesirable precedent in terms of non-compliance with key planning conditions. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development comprising six houses on a site which was indicated for use as 'open space' in planning permission register reference number 94/1258 (An Bord Pleanála reference number PL17.096766) would be contrary to the provisions of the Meath County Development Plan 2013-2019, as set out in Policy SOC POL 39, which seeks 'to resist the loss of existing public open space, unless alternative recreational facilities are provided in a suitable location' and in Policy SOC POL 42 which seeks 'to maintain free from development lands that are subject of a deed of dedication or identified in a planning permission as open space to ensure the availability of community and recreational facilities for the residents of the area'. These policies are considered to be reasonable.

The proposed development would result in the loss of this area of open space, and would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area”.

## **5.0 Policy Context**

### **5.1. Development Plan:**

- 5.1.1. The applicable Development Plan is the Meath County Development Plan 2021 – 2027 (adopted 22<sup>nd</sup> of September 2021), as amended by Variation no. 1 and 2 to the Meath County Development Plan – adopted on the 13th of May 2024.

I note that variation no. 3 to the Meath CDP 2021-2027 has been published.

The site is located on lands primarily zoned "G1" - 'Community Infrastructure' for the settlement of Ashbourne in the Development Plan, with a stated objective “*To provide for necessary community, social, and educational facilities*”. However, reviewing the overall lands the site appears to incorporate some residual areas of "A1" - 'Existing Residential' and "F1" - 'Open Space'.

### **5.2. Relevant Sections/Policy and Objectives:**

- 5.2.1. Chapter 4 of the Meath County Development Plan 2021-2027 sets out the Economy and Employment Strategy.
- 5.2.2. Chapter 7 of the Meath County Development Plan 2021-2027 sets out the Community Building Strategy:
- SOC POL 24 To co-operate with the Health Service Executive and other statutory and voluntary agencies and the private sector in the provision of appropriate health care facilities covering the full spectrum of such care from hospitals to the provision of community-based care facilities subject to proper planning considerations and the principles of sustainable development.
  - SOC POL 25 To encourage the integration of healthcare facilities within new and existing communities and to discourage proposals that would cause unnecessary isolation or other access difficulties, particularly for the disabled, older people and children.

- SOC POL 26 To ensure that adequate lands and services are available for the improvement, establishment and expansion of health services.
- SOC POL 29 To support and co-operate with promoters or operators of public and private health care facilities by facilitating and encouraging the provision of improved health care facilities in appropriate locations.
- SOC POL 30 To support the provision of 'one stop' primary care medical centres and GP practices at locations easily accessible to members of the wider community.
- SOC POL 32 To encourage and support local sports, community groups and other groups in the provision and development of outdoor and indoor sporting and community facilities.
- SOC POL 33 To support local sports groups, community groups and other groups in the development of facilities through the reservation of suitable land and the provision of funding where available and appropriate.
- SOC POL 36 To ensure that new leisure facilities, where possible, are located in proximity to public transportation routes and where they can best meet the needs of the community that the facilities are intended to serve.
- SOC POL 40 To resist the loss of existing public open space unless alternative recreational facilities are provided in a suitable location.
- SOC POL 41 Identify free from development, lands that are the subject of a deed of dedication identified in a grant of planning permission as public open space, to ensure the availability of community and recreational facilities for the residents of the area.

5.2.3. Chapter 11 of the Meath County Development Plan 2021-2027 sets out the Development Management Standards and Land Use Zoning Objectives.

### 5.3. **Section 28 Ministerial Guidelines**

5.3.1. Having considered the nature of the proposal and the documentation on file, I am of the opinion that the directly relevant S28 Ministerial Guidelines and other related guidance are:

- Development Management Guidelines (2007).

#### 5.4. **Other relevant Guidance:**

- Design Manual for Urban Roads and Streets (2013).

#### 5.5. **Natural Heritage Designations**

5.5.1. The subject site is not located within nor proximate to a designated European Site.

5.5.2. The nearest such sites are as follows:

- Malahide Estuary SAC (Site Code: 000205) – c. 13.6km southeast of the site.
- Malahide Estuary SPA (Site Code: 004025) – c. 14km southeast of the site.
- Rogerstown Estuary SAC (Site Code: 000208) – c. 13.7km east of the site.
- Rogerstown Estuary SPA (Site Code: 004015) – c. 14.5km east of the site.

#### 5.6. **EIA Screening**

5.6.1. I refer the Board to Appendix 1 – Form 1 EIA Pre-Screening of this report.

5.6.2. Having regard to the nature and scale of the development comprising the retention of an there is no real likelihood of significant effects on the environment arising from the 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 received from Farry Town Planning Limited on behalf of the applicant Rosey Glow Limited. The appeal includes details on the site and its environs, the planning history, the proposed development and planning policy.

Section 8 includes the grounds of the appeal, and can be summarised as follows:

- The council is satisfied with the overall principle of the proposal.
- The analysis concludes that there will be no impacts in terms of overlooking overbearing over shattering loss of outlook or loss of natural light.

- There is much to commend in this proposal.

#### Reason for Refusal 1 – Contravention of Previous Permission

- Minimal overlap – Map No.1 shows the size, shape and location of the application site which was originally lodged with north County Council. The land only marginally encroached on the area which had been earmarked as open space on the location map in ref 94/ 1258 (ABP ref PL-17. 096766), this overlap area is actually proposed to accommodate an open space and would not conflict with the intended use of this land.
- The relationship between the site of tutor Grove and the application site has been presented as part of the proposal.
- Revised arrangement - the arrangement change of the direction of the planning authority following item number 4 of the request for further information which required an extended red line boundary and footpath widening. This necessitated the enlargement of the application site. No part of the application site as originally proposed or varied includes land which is designated as public open space in the development plan.
- In 2016 the lands which were designated as open space were taken in charge, the area taken and charged corresponds with the subsequent revised open space zoning objectives as set out in the current Development Plan. The remaining lands which form the application site were zoned G1 community infrastructure in the current Development Plan.
- Submission - is the appellants opinion that there was no legal bar on the inclusion of land which was previously designated as open space in the case of an application as part of the subject site, especially as this overlap land does not include built development per se and would essentially be used for public purposes following the direction of the council in its further information request.
- No part of the council's assessment takes account of the substandard nature of the amenity area and the changed circumstances which have arisen since the parent permission was originally issued. This is for all intents and purposes an area of wasteland.

- At no point does the report of the planning officer note the small overlap area as illustrated in the appeal the size of the recreational space which would otherwise remain to serve the estate and the fact that the present proposal would improve public facilities in the area.
- The council has not taken the zoning arrangement into account or the fact that the achievement of G1 objective which applies to most of this overall site requires improvements to be undertaken on the adjacent area.
- The appellant references previous Bord decisions for reference to this case.

#### Reason for Refusal 2 – Physical Planning Issues

- **Land use** - To the degree the second reason for refusal raises land-use issues, this text is at variance with the Council's clear and candid acceptance that the activities which are proposed on this land accords with the zoning objective which applies to this land.
- **Site Layout** – Although the Report of the Planning Officer suggests that the Council is not satisfied that the proposed development, makes the most appropriate use of zoned and serviced lands', no part of this analysis explains why this is the case.
- **Site Configuration** – Although the Council criticises the fact that this proposal would be situated 'on a narrow-elongated strip of land', this tract comprises a remnant strip which was left over after the Council permitted St. Mary's National School and the Tudor Grove estate. This site is located between two longstanding developments, and it is simply not possible to increase the area of the site or the shape of the property.
- At no time does the Planning Authority identify any actual planning harm which would result from this proposal proceeding and indeed, this second reason for refusal would tend to suggest that the Council would prefer for this land to remain in its current derelict and unkempt condition, rather than be developed for purposes which would wholly accord with the Meath County Development Plan.
- The appellant believes that the Planning Authority's approach run counter to section 15 of the Planning and Development Act, 2000 (as amended).

- **Justification** – The appellant submits that development decisions, in terms of the type of proposal to advance for a particular site, are within the purview of a landowner, rather than a local authority and indeed, commercial considerations of an entirely confidential nature often form part of such an assessment.

It is not reasonably open to a planning authority to deny consent for a development which complies with the land-use arrangements, on the basis that an applicant has not established a proven need for particular activities.

It is strange that the Report of the Planning Officer might seek justification for this medical and fitness proposal in circumstances where the activities which are now envisaged for this tract comply with the Council's own land-use objective. It would be unreasonable for the Board to deny planning permission on this ground.

- **Planning Standards** – the second reason for refusal suggests that this proposal would 'constitute a substandard form of development', no part of the Council's documents identify any particular controls which apply to this form of proposal and at no stage does the Council suggest that the proposed buildings would fall short of any of its requirements, specifically in terms of their size, height or arrangement with no breaches of numerical stipulations, such as plot ratio or site coverage, or parking and access arrangements.
- It is impossible to see how the environment would be improved by maintaining this site in its current condition.
- In terms of its impact on residential and visual amenity, the appellant considers that a denial of consent on this ground would be unfair and that the continued use of this site as a tract of wasteland accords with the proper planning and sustainable development of this area.

## 6.2. Planning Authority Response

- 6.2.1. A response was received from the planning authority dated 16<sup>th</sup> April 2024.
- 6.2.2. The Planning Authority notes the contents of the first-party appeal and issues raised in same for the proposed development. The Planning Authority is satisfied that the

subject proposal was appropriately considered throughout the course of the assessment of the planning application as detailed in the respective Planning Officer Reports dated 17<sup>th</sup> July 2023 and 28<sup>th</sup> February 2024.

6.2.3. The planning authority conclude *“It is considered that the proposed development, comprising the construction of 3 no. buildings (medical centre, gym and fitness centre, and maintenance unit) would contravene a planning condition thereby setting an undesirable precedent for non-compliance with previous planning permissions; and, that the layout of three separate units on a narrow, elongated site would result in an incoherent form of development which would depart from considered planning principles. Therefore, the proposed development would not be in accordance with the proper planning and sustainable development of the area”.*

6.2.4. An Bord Pleanála are requested to uphold the decision of the Planning Authority to refuse permission for the development.

### 6.3. **Observations**

6.3.1. Two observations were received from Ms. Sarah Jane Behan and Mr. Brian Brennan. The issues raised in the observations are summarised below:

- Object to the development.
- Concern regarding the proposed type of development which is not in keeping with the current and surrounding land use.
- Traffic issues and risk to the current and future road users.
- The significance of green spaces for community well-being, recreation and environmental sustainability should reinforce the objection.
- The failure to deliver on the proposed green space undermines trust of the community and diminishes the quality of life in the area.
- The nature shape and location of the proposed site deem it inappropriate for development.
- The proposed development would represent a piecemeal approach.
- The proposed uses are open for consideration onto the development plan, there is no similar use no justification for the proposal.

- The proposal would overlook the school building creating privacy issues for the children.
- The area of land subject to the proposed development are located on lands which were to be preserved as open space as per condition of Ref 944/1254 (An Bord Pleanála Ref.PL 17096766). Land to the north of the application site is zoned for open space the land in question should remain zoned and be developed as open space.
- Insufficient infrastructure and then around the proposed site from a traffic management and water services viewpoint.

## 7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal, I consider the main issues which arise in relation to this appeal are as follows:

- I. Principle of Development
- II. Planning History
- III. Reason for refusal 1
- IV. Reason for refusal 2
- V. Traffic Issues
- VI. Privacy Issues
- VII. Appropriate Assessment, and
- VIII. Other Matters.

## 7.2. **Principle of Development**

7.2.1. The site is mainly zoned “GI” - 'Community Infrastructure' for the settlement of Ashbourne in the Development Plan, with a stated objective “*To provide for necessary community, social, and educational facilities*”.

Part of the appeal site and part of the lands indicated to be within the appellants ownership incorporate areas of "A1" zoning -'Existing Residential' and "F1" zoning - 'Open Space'.

7.2.2. The proposed development comprises 3 no. detached buildings, comprising a medical centre, gym and ancillary building with associated site works. Noting the permitted and open for consideration uses associated with lands zoned 'G1', which includes health centre, leisure/recreation/sports facilities (permitted uses) and gymnasium (open for consideration), I consider that the proposed development to comply with the zoning objective for the site, however this is subject to the planning history pertaining to the overall landholding indicated on the submitted plans, and any potential impact on traffic safety or amenity, which will be assessed further below.

### **7.3. Planning History**

- 7.3.1. I consider that the planning history to be of particular relevance to this appeal and the planning history is referenced by the planning inspector as part of their assessment of both ABP Ref. No. 300097-17 and ABP-303556-19.
- 7.3.2. The parent permission at this site granted 18 no. dwellings (i.e. Reg. Ref. 94/1258 / PL17.096766) on the directly adjoining lands. A condition was attached (Condition 3) in respect to the requirement of open space on the lands.
- 7.3.3. Several amending permissions were lodged with the local authority for additional dwellings on the lands to the east and south of the existing Tudor Grove development, part of which included the appeal site. In addition to permission to remove in part the Condition of P.A. Reg. Ref. No. 94/1258 and An Bord Pleanála Ref. No. PL17.096766 (under P.A. Reg. Ref. No. AA181312 An Bord Pleanála Ref ABP-303556-19). As noted in the planning history permission was refused mainly for reasons that the developments as proposed would contravene Condition No. 3 of P.A. Reg. Ref. No. 94/1258/ABP Ref. No. PL17.096766, which relates to open space associated with the overall Tudor residential development.
- 7.3.4. The instant proposal differs in terms of the location and development uses proposed, however, the overall landholding indicated on the planning submitted to the planning authority as part of Ref. 23550 overlap with those submitted under the previous planning applications.
- 7.3.5. A principal issue pertains to whether or not it would be acceptable to develop a portion of the lands which appear to have been previously denoted as 'open space' lands in the associated documentation accompanying P.A. Reg. Ref. No. 94/1258

and conditioned under An Bord Pleanála Ref. PL17.096766/P.A. Reg. Ref. No. 94/1258.

- 7.3.6. I also highlight that the lands subject to a previous grant of permission (An Bord Pleanála Ref. PL17.096766/P.A. Reg. Ref. No. 94/1258), that were indicated as open space and were to be provided as open space as per a condition of this permission, have not been implemented by the developer, this has also not been enforced by the Planning Authority. While this is not a matter for the Board per se, I consider this to be of relevance when considering the overall development of these lands and to avoid the piecemeal development of same and the reduction in open space to be provided for reasons of residential amenity.

#### **7.4. Reason for refusal 1**

- 7.4.1. Reason for refusal 1 considers that the proposed development which is located on lands which were to be preserved as open space under a previous condition of permission would contravene the permission which required that the site be provided as open space for the adjoining residential development and would result in the loss of open space and non-compliance with a planning condition of a previous planning permission.
- 7.4.2. Under ABP: PL. 17.096766/941258 – permission was granted on appeal to An Bord Pleanála for the erection of 18 pairs of semi-detached two storey houses. Condition No. 3 reads “the open space to be provided shall be finished to the satisfaction of the planning authority and agreed in writing prior to the occupation of the first dwelling house”.
- 7.4.3. The appellant states that there is minimal overlap where the land encroached on the area which had been earmarked as open space and that the proposal would not conflict with the intended land use as no built form is proposed at this location, and the Council has not taken account of the zoning objective which applies to the overall site.
- 7.4.4. I note the further information request by the planning authority, specifically item 1, which requested the applicant to illustrate the extent of lands indicated for use as open space provided for under Reg. Ref. 94/1258, and to demonstrate the zonings located within the red line site boundary. This was not submitted as part of the planning application. The appeal details include an extract (Map 3), which appears to

have been submitted as part of P.A. Reg. Ref. No. 94/1258, however this does not fully detail the extent of the lands within the boundary of P.A. Reg. Ref. No. 94/1258 or the lands subject to be conditioned 'open space'.

- 7.4.5. Having regard to the planning history noted in Section 7.3 above, I reference the drawings and details submitted as part of P.A. Reg. Ref. No. 94/1258 and planning application Ref. AA181312. The drawings submitted under P.A. Reg. Ref. No. 94/1258, specifically 'site layout' drawing no. 9220-2 (received by the planning authority on 13/12/1994) and 'site layout' drawing no. 9220-2A (received by the planning authority on 30/05/1995) indicate that the red line application boundary to include the lands up to the southern site boundary with the adjoining St. Mary's National School. Additionally, the submitted site plan layout as proposed and adjoining lands drawing no. 2015 17 P301 (received by the planning authority on 05/11/2018), clearly delineates in blue line the site of planning application no 94/1258/PL17.096766, to include the lands up to the southern site boundary with the adjoining St. Mary's National School. As such, the previous planning applications appear to include the full extent of the lands subject to the current appeal and delineated these lands as open space.
- 7.4.6. Notwithstanding any change in zoning objective in the interim period and that the uses as proposed would be acceptable in principle on these lands, given the lack of clarification presented by the applicant in either the planning application or as part of this appeal, and based on the planning history drawings and documentation, I am of the view that the previous site area of planning application 94/1258/PL17.096766, included the subject site. I would, therefore, be of the opinion that this site was to be included as part of the site to be provided as open space as per Condition No. 3.
- 7.4.7. While the subject site is presently in an unkempt condition and was not developed as open space, and the planning authority has not enforced this condition, this does not excuse these lands from their requirement as open space under the previous permission. I also consider that the adjoining residential Tudor Grove/Heights development appears to be lacking in terms of open space and to further reduce this space would reduce the residential amenities that were to be provided and would result in an undesirable precedent of the non-compliance with a planning condition attached to a previous permission on these lands, notwithstanding the date of the parent permission.

7.4.8. Therefore, I concur with the planning authority and recommend that permission be refused in this instance.

**7.5. Reason for refusal 2**

7.5.1. Reason for refusal 2 considered that the proposal on a narrow, elongated strip of land would represent a haphazard, piecemeal development and a substandard form of development on primary 'G1' Community Infrastructure zoned lands and the planning authority was not satisfied that the applicant had justified or provided a rationale for the proposal.

7.5.2. The appellant considers that this reason for refusal is at variance with the Council's acceptance of the proposal and states that the site is located between two longstanding developments, and it is not possible to increase the site area and that the proposals wholly accord with the zoning and in terms of justification notes that commercial considerations are of an entirely confidential nature.

7.5.3. Notwithstanding the planning history and zoning objective for the site, which the proposal accords in principle with, I concur with the view of the planning authority and consider that the proposal represents piecemeal and uncoordinated development of these lands on primarily 'G1' - Community Infrastructure zoned lands which has the zoning objective to 'provide for necessary community, social, and educational facilities' as per Development Plan.

7.5.4. At time of site inspection, I noted the unkempt condition of the lands, which were to be provided as open space as per the planning history noted in Section 7.3 above. While the local authority did not enforce this condition, I consider in line with the proper planning there is an onus on the developer to deliver on the requirements of conditions attached to a permission. I also note that the lands adjoining the site to the north, indicated as 'open space' on the submitted site layout plan, are in the ownership of the appellant (i.e., blue line boundary).

7.5.5. Therefore, I consider that in the absence of a proposed masterplan for the lands that includes the appeal site area as well as the 'open space' lands in the applicant's ownership directly adjoining the site to the north would result in piecemeal and uncoordinated development. I consider that the appellant should provide a masterplan and vision for the overall lands in their ownership to ensure that these lands provide community infrastructure in line with the zoning objective, permeability,

and connectivity to surrounding lands and demonstrate that the relevant planning provision requirements for the open space area associated with the adjoining residential development are achieved in a compliant manner.

- 7.5.6. In relation to the ‘substandard form of development’ referred to in the reason for refusal the appellants state that the proposed buildings do not fall short of any requirements in terms of their size, height, or arrangement with no breaches of numerical stipulations, such as plot ratio or site coverage, or parking and access arrangements. I acknowledge the standard of the buildings as proposed, which appear to be acceptable in terms of planning standards, however, as noted above I consider that the appellant should consider a masterplan for the entire site within their ownership.

Conclusion:

- 7.5.7. Therefore, I consider that the proposed development to be piecemeal and uncoordinated and that a masterplan for the delivery of both the appeal site and the adjoining site to the north, which appears to be included in the lands pertaining to the site boundary of An Bord Pleanála Ref. No. PL17.096766/P.A. Reg. Ref. 94/1258, should be considered by the appellant. I recommend a refusal of permission in this regard.

**7.6. Traffic Issues**

- 7.6.1. The observers raise concerns in relation to traffic in the vicinity and highlight that the proposed development will further traffic issues to the area and express concerns over the proposed entrance to the site.
- 7.6.2. Whilst I acknowledge that the appeal site is located adjacent to a school and within a residential development, having inspected the site I note that there is a reasonable amount of on-street car parking available within the premises of the school. During my site inspection – which was on a school day, albeit outside peak times – I noted that there were no illegally parked vehicles in the vicinity of the site. The proposal provides on site parking to accommodate both the medical facility and gym facility. Nonetheless, I acknowledge the Planning Authority requested further information in relation to a number of items including, the widening of the site boundary to allow for the widening of the footpath and to upgrade the design of the proposed entrance, to accord with the Traffic Management Guidelines and to provide bicycle parking and

an accessible parking space (Item 4). The applicant submitted revised design to address the items raised and the Transportation Department considered the proposal to be acceptable subject to conditions.

- 7.6.3. Any development at this site will increase traffic movements, however parking is proposed to serve the development, and users of the facility in particular the gym would be outside the peak times for congestion.
- 7.6.4. In relation to the concerns expressed in relation to the adjoining road network and traffic movements outside of the subject site. I consider that this is outside of the remit of the applicant under the instant appeal and that such works and activity fall outside of the Board's remit in deciding this application.
- 7.6.5. In summary, and having regard to the above, I consider that the proposed development would result in a satisfactory entry/exit road design and layout, which would be unlikely to result in any additional traffic congestion or endanger public safety by way of presenting as a traffic hazard. The proposed development would also enhance the existing pedestrian access at this location thereby improving pedestrian safety.
- 7.6.6. Accordingly, I do not consider that permission should be refused for the impact on traffic movement/safety and pedestrian safety.

## **7.7. Privacy Issues**

- 7.7.1. The observers have raised concerns in relation to the impact of the proposed development on the privacy of the school children.
- 7.7.2. The proposed development adjoins the school to the southern boundary, however, the proposed southern elevation to the gym consists of a blank elevation, therefore no overlooking issues will arise.
- 7.7.3. In relation to the proposed medical centre, I note that there is some fenestration proposed to the southern elevation. At ground floor level the proposed windows serve the admin room and the public toilets, accordingly these could be conditioned to contain obscure glazing. At first floor level the proposed windows serve 2 no. consulting rooms and a WC, these windows appear to be high level, to avoid overlooking, however, these could also be conditioned to contain obscure glazing to prevent overlooking.

7.7.4. Accordingly, I do not consider that permission should be refused for the impact on privacy as this could be conditioned to avoid undue overlooking.

## **7.8. Appropriate Assessment**

7.8.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000, as amended.

7.8.2. The subject site is not located within or adjacent to any European Site.

7.8.3. The development comprises the construction of a two-storey medical centre building & service yard, the construction of a two-storey gym & fitness centre building & service yard, the construction of a single storey storage and maintenance building with open covered area for bicycle parking and all associated works.

7.8.4. Having considered the nature, scale, and location of the proposed development, I am satisfied that it can be eliminated from further assessment for the reason that it could not have any appreciable effect on a European Site.

7.8.5. The reason for this conclusion is as follows:

- Scale and nature of the proposed development.
- The location of the development in a serviced rural area, distance from European Sites and absence of ecological pathways to any European Site.

7.8.6. I consider that the development to be retained would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is, therefore, not required.

## **7.9. Other Matters**

### **7.9.1. Precedent**

In relation to precedent referenced within the appeal response, I note that all appeal cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

### **7.9.2. Miscellaneous Issues**

The appellant references Section 15 of the Planning and Development Act, 2000 (as amended) and states that the Council's approach runs counter to the Act which

states that *"It shall be the duty of a planning authority to take such steps within its powers as may be necessary for securing the objectives of the development plan"*.

Section 15 of the Planning and Development Act, 2000, (as amended) pertains to the planning authority in relation to the progress achieved in respect to the objectives of the Development Plan, as such I consider this to be a matter for the Planning Authority and not for An Bord Pleanála in the consideration of this appeal.

## **8.0 Recommendation**

- 8.1. I recommend that permission be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. The area of lands subject to the proposed development appear to be fully located on lands which were to be preserved as open space and as such it is considered that should the development be approved that it would contravene Condition No. 3 of Reg. Ref. 94/1258 (An Bord Pleanála Ref. No. PL 17.096766) which required that, *"prior to the occupation of the first dwelling house, the subject site be provided as open space and finished to the satisfaction of the Planning Authority"*. It is further considered that the development, as proposed, would result in the loss of 'open space' lands to be provided for the recreational amenity for the wider Tudor Grove and Tudor Heights housing schemes. Permitting the subject development, as proposed, would set an undesirable precedent in terms of non-compliance with planning conditions of previous planning permissions and would therefore be contrary to the proper planning and sustainable development of the area.
2. The appeal site forms part of a larger parcel of land indicated as 'open space', which is currently vacant and in an unkempt state, and is under the control of the applicant, as indicated on the submitted ordnance survey map and site plan layout, as proposed. It is considered that in the absence of an agreed overall masterplan for the land under the applicant's control, including the area of open space to the north, on primarily 'G1' - Community Infrastructure zoned lands which has the zoning objective to 'provide for necessary

community, social, and educational facilities' as per the Meath County Development Plan 2021-2027 (as varied), pertaining to the appeal lands, that the proposed development would represent a piecemeal and uncoordinated approach to the sustainable development of the area and would, thereby, 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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Emma Nevin  
Planning Inspector

29<sup>th</sup> November 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	319382 -24			
<b>Proposed Development Summary</b>	The construction of a two-storey medical centre building & service yard, the construction of a two-storey gym & fitness centre building & service yard, the construction of a single storey storage and maintenance building with open covered area for bicycle parking. Along with an access road, parking and all associated services, service connections, landscape, boundary treatment and site development works.			
<b>Development Address</b>	Tudor Grove, Killegland, Ashbourne, Co. Meath			
<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>	X	
		<b>No</b>		
<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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		N/A		
<b>No</b>	X		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>Conclusion</b>
<b>No</b>	X		Proposal for Medical centre, gym, ancillary building and associated works.	No EIAR or Preliminary Examination required

Yes				
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required