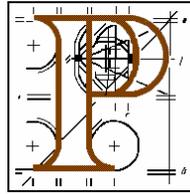


An Bord Pleanála



Inspector's Report

Ref: PL06S.238768

Development:

Change of use of upper ground floor from childcare facility (199sq.m) approved under SD02A/0549 to 2 no. bedroom apartments and all associated site works.

Location:

Westend Gate, at the junction of Blessington Road and Cookstown Way, Tallaght, Dublin 24.

Planning Application

Planning Authority: South Dublin County Council
Planning Authority Reg. Ref.: SD11A/0019
Applicant: Glan Developments Ltd
Type of Application: Permission
Planning Authority Decision: Refuse Permission

Planning Appeal

Appellants: Glan Developments Ltd
Type of Appeal: First Party
Observers: Railway Procurement Agency
Date of Site Inspection: 16th of June 2011
Inspector: Angela Brereton

1.0 SITE LOCATION AND DESCRIPTION

The site is located at the upper ground floor level within an existing residential block of apartments known as Westend Gate. The overall block fronts onto Blessington Road, Cookstown Way and the N81. The subject site is located on the corner at the junction between Blessington Road and Cookstown Way.

The unit is constructed and is currently unoccupied and not fitted out. It is at entrance level within a five storey block of apartments and is in proximity to the main entrance to the building and as such is highly visible to all the occupants of the complex. There is a ramp for disabled access/ buggies along the road frontage of the unit and this leads to the entrance to the unit, which is adjacent to the main stepped entrance to the apartments. Balconies from the residential above overlook the road frontage. There is an enclosed courtyard at the rear and this also contains a small play area. The play area for the crèche is enclosed by railings and is located adjoining this courtyard area. There are balconies above. There is a separate gated entrance to the courtyard area.

Access to the underground parking area for the apartments is to the south of the unit. There is no drop off parking facility along the site frontage, which is in proximity to a busy road network in the centre of Tallaght. There is a significant parking area associated with The Square Shopping Centre to the east, within walking distance of the site. There are traffic lights in proximity to the road frontage of the site. There are other taller apartment blocks in the general vicinity, many with retail or restaurant/take away use on the ground floor. The general area is also serviced by public transport.

2.0 PROPOSED DEVELOPMENT

The proposed development is to provide a change of use of the upper ground floor unit from a childcare facility (199sq.m) approved under SD02A/0549 to 2 no. two bedroom apartments with terrace and all associated site works. Floor plans and elevations showing Apartments A and B have been submitted. The floor area of the apartments is given as 92sq.m & 96sq.m. The Site Layout Plan shows the existing rails to the crèche play area is to be removed and the area shaded green to be taken in charge by a management company.

A letter has been submitted on behalf of the applicants by JFOC Architects and this includes the following:

- A planning history of the building referring to the parent permission Reg.Ref. SD02A/0549 and provision being made for a crèche facility.
- Since the time of its completion in 2006, the crèche facility has been offered on the market but has not yet been let.
- They consider that a number of reasons mitigate strongly against the crèche, and these include lack of parking and safe drop off facilities.
- The open space play area is overlooked by the balconies and its quality is poor, they enclose photos showing cigarette butts in the open space area.
- There is an oversupply of childcare facilities in the area and they provide details of these and include drawing no. 09.100.PD03, which shows childcare facilities in the immediate and Tallaght area.

- As the unit is unoccupied it is constantly the target of vandalism and anti-social behaviour and the source of complaint from residents, and they attach letters in this respect.
- They provide details of the proposal for the change of use to apartments and consider that it represents an appropriate response to the problem that has arisen due to a lack of interest in a crèche in this location, which they consider non viable.
- They provide that the apartments are in compliance with the ‘Sustainable Urban Housing: Design Standards for New Apartments’ DoEHLG Sept 2007.

3.0 PLANNING HISTORY

Reg.Ref.SD02A/0549 – Permission granted by SDCC for a residential development comprising 124no. apartments in blocks of 3,4 and 5 storeys plus penthouse with associated crèche over a shared basement car park with landscaping and ancillary site works. A subsequent appeal to the Board was withdrawn.

Reg.Ref.SD03A/0966 – Permission granted by the Council for amendments to Reg.Ref.SD02A/0549 to increase the number of apartments from 124 to 126.

Reg.Ref.SD04A/0160 - Permission refused by SDCC for amendments to previously approved development (SD02A/0549) to provide extra storey increasing the no. of residential units from 126 to 132 apartments. Permission was subsequently granted subject to conditions on appeal to the Board Ref. PL06S.207404 relates. Condition no.1 of this permission provides that the proposed development shall generally be carried out in accordance with the parent permission above.

Copies of these Decisions are included in Appendix 2 of this Report.

4.0 TECHNICAL REPORTS

The **Railway Procurement Agency** notes that the proposed development falls within the area set out in the Metro West Section 49 Levy Scheme and does not fall under the exemptions listed in the scheme and recommends a condition if permission is granted to include a Section 49 Metro West Levy.

Environmental Services has no objections subject to metering of water supply and works to be carried out in accordance with current specifications.

The **Roads Department** notes that there is a deficiency in carparking provision for these apartments in accordance with the standards and considers the proposal will cause traffic congestion and recommends a refusal of permission.

Planner’s Report

The Planner has regard to the planning history and context of the site and to planning policy. They consider that the proposal is acceptable in terms of the zoning of the site and that the permitted crèche unit is in accordance with the Childcare Facilities Guidelines. Also they provide that the crèche unit is a purpose built facility that forms an integral part of the parent permission (SD02A/0547) for a high density residential development on the application site. The proposed residential use is not a temporary one and materially conflicts with policy SCR 33 of the CDP 2010-2016.

They consider that the proportion of purpose built childcare facilities to residential premises is not excessive in this area and that there is an absence of such alternative facilities in close proximity to the site. The proposal conflicts with the terms of the parent permission in terms of childcare provision. They note that a parking layout has not been submitted and note the Roads Report but consider that the impact of the proposed change of use on the demand for car parking and on traffic generation would be negligible in this instance. They consider that the proposed apartment development would comply with the 'Sustainable Urban Housing Standards for New Apartments' and the minimum standards for private amenity space in the CDP.

Having regard to the change of use they consider that the proposed development in its current format is contrary to the proper planning and sustainable development of the area.

No Submissions have been received in relation to this application

5.0 DECISION

On the 22nd of March 2011, South Dublin County Council, refused planning permission for the proposed development for three no. reasons, and these are summarised as follows:

1. The proposal materially contravenes Policy SCR 33 (change of use of purpose built childcare facilities) of the CDP 2010-2016 as stated in Section 1.3.22.xii and as such would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the provision of the childcare facility was a material consideration in the provision of the overall development under Reg.Ref. SD02A/0549. In the absence of active alternative purpose childcare facilities in close proximity to the site and having regard to the policies of the CDP 2010-2016 and the Childcare Facilities Guidelines 2001, the proposal conflicts with the terms of the parent permission in terms of childcare provision and the proper planning and sustainable development of the area.
3. The proposed development would set an undesirable precedent for other similar developments which would in themselves and cumulatively be harmful to the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.

6.0 GROUNDS OF APPEAL

A First Party appeal has been submitted by Michelle Wilson MRUP MIPI on behalf of the applicants and this includes the following:

- A planning history of the site, the crèche unit has been vacant for a number of years and unable to attract an operator. Letters are included from Abacus Management and Douglas Newman Good in Appendix B.
- Anti-social behaviour related to the vacant unit. This change of use will address the concerns of residents and improve the residential amenity of the block and the surrounding area.
- It is submitted that there is an inherent conflict between the policies of the CDP promoting the development of Tallaght town centre and the protection of residential amenity, promoting high quality childcare facilities and those which prohibit a change of use of a childcare facility.

- The proposed new use is wholly in compliance with the site's town centre zoning. Having a long term vacant unit fronting onto one of the main thoroughfares in the town centre creates a poor perception of the town centre.
- There is a lack of parking and drop-off/pick-up facilities for the crèche and a hazardous route to the site, located at a busy junction in Tallaght town centre which makes it an unattractive location for a childcare facility.
- The outdoor space for the children in the facility is overlooked by balconies and is continuously littered with cigarette butts and they attach photos in Appendix C.
- An operator of a childcare facility at this location would find it difficult to maintain the play area to an adequate standard to comply with the Childcare (Pre School) Regulations.
- They question whether SDCC would now grant planning permission for a crèche facility, which is substandard and is incorporated within an apartment block.
- They consider that there is a conflict with childcare policies under section 1.3.21 of the CDP 2010-2016.
- They provided that there is no demand for childcare places in the immediate area, this is evidenced by vacant facilities including residential units in the area.
- Permission should be granted having regard to the Childcare Guidelines such facilities should be granted on the basis of need.
- Council policies of prohibiting change of use of childcare facilities in areas where it has clearly been shown that there is no demand for childcare is clearly at variance with the objectives of the Childcare Guidelines which is to provide childcare places where there is a need.
- They refer to Appendix B of the Childcare Guidelines and provide an analysis of Childcare Needs of Residents in Appendix D of this appeal
- The requirement to retain a redundant childcare facility is clearly at odds with the objectives of the Childcare Guidelines, which is to provide childcare places where there is a demand.
- The Planning Authority has no mandate to require developers to provide childcare facilities above those required to meet demand generated by a particular residential development. The applicant is not a childcare provider but a residential developer.
- The crèche provided as part of the P.A.s requirements in relation to the provision of childcare is solely to meet the requirements of the permitted development of 126no. apartments.
- South Dublin has since the publication of the Childcare Guidelines required that childcare facilities are provided as part of residential developments on a site by site basis.
- The scheme granted to the north east of the subject site includes provision for 389apartments, commercial units including a crèche of 575sq.m. This crèche is located within walking distance of the site.
- They also have regard to a number of other crèche type facilities provided in relation to other residential developments in the area.
- They refer to precedent cases where the issues of promoting urban regeneration were considered and in particular to a case in Chapelizod Ref. PL29S.234100 refers.

- Having regard to Reason no.3 for refusal this application must be considered on its merits and they ask the Board to replace a crèche where there is demonstrably no demand for same.
- They submit that to allow these premises to continue in their vacant state when the possibility of providing childcare facilities are questionable would conflict with the proper planning and sustainable development of the area.
- The apartment development was completed in 2004 and the crèche facility has been on the market for rent or sale since that date.
- A Summary and Conclusion of the First Party case relevant to the non suitability of the crèche location and its non viability and conflict with policies is provided and they ask the Board to allow the new residential use.

7.0 RESPONSES

South Dublin County Council has not responded to the grounds of appeal but provides that in the event of a grant that supplementary development contributions are applicable. This issue is discussed further in the Other issues Section of the Assessment below.

8.0 OBSERVERS

The Railway Procurement Agency (RPA) provides that the proposed development falls within the area set out in the Metro West Levy scheme. The RPA is of the opinion that the proposed development does not fall under the exemptions listed in the Council's Supplementary Development Scheme. They request that should the application be successful that a Section 49 Levy is applied as a condition of the grant.

9.0 ASSESSMENT

Having read through the file, had regard to the First Party appeal and having visited the site, I would consider the following to be the most relevant issues in this appeal:

- Justification for Change of Use, Planning Policy and Guidelines
- Material Contravention
- Precedent cases
- Design and Layout and the impact on the character and amenities of the area
- Access and Parking
- Other issues

9.1 Justification for Change of Use, Planning Policy and Guidelines

This crèche is part of the Westend Gate development was originally provided solely to meet the needs of the 124 no. apartments permitted in the parent permission RegRef.SD02A/0549 relates. It is noted that since that time, 132no. apartments have been granted permission in this apartment complex Ref.PL06S.207404 refers. The First Party are concerned that smaller crèches such as the one permitted in this scheme are no longer required or viable in the current economic circumstances, and that there are sufficient such facilities in the area. They consider that the area is well provided and oversupplied with childcare places and they refer to Fig.no.09.100.PD03 submitted, which shows a number of such facilities in the Tallaght area and in relative proximity to the site. They submit that there is a conflict between the policy of the Council to seek to retain childcare facilities where they do not comply with the stated policies of seeking stand alone crèche facilities and consider it unlikely that the

Council would now grant permission for a facility of this design, in such a location without parking facilities.

The South Dublin County Development Plan 2010-2016 has now been adopted and is the pertinent Plan. The site is located within Objective 'CT' i.e. '*to protect, improve and provide for the future development of the County Town of Tallaght*'. Section 1.3.21 concerns Childcare and Pre-School Facilities and this includes full day care and sessional care. This recognises that there is a growing demand for childcare facilities and Policy SCR26 refers to promoting such facilities where appropriate. Regard is also had to *The Childcare Facilities Guidelines* (2001), which require the provision of at least one childcare facility for every 75 dwelling units in new housing areas with a capacity for 20 children. Policy SCR27 refers to promoting compliance with these Guidelines. This is further addressed in Policy SCR32, which provides criteria for assessing the suitability of the site for the type of facility proposed. This includes the availability of outdoor play areas and details of management of same, convenient to public transport nodes, safe access and convenient parking for customers and staff, local traffic conditions, number of facilities in the area, intended hours of operation and impact on residential amenity.

The First Party note that the Childcare Facilities Guidelines 2001 provide that *the threshold for provisions should be established having regard to the existing geographical distribution of childcare facilities and the emerging demographic profile of areas* (section 2.4). This is reiterated in Section 4.5 of the 'Sustainable Residential Development in Urban Areas Guidelines', which emphasise the importance of local assessment of the need to provide such facilities at the development plan or local plan stage having regard to the provision of existing facilities in the area. They consider that the Guidelines do not require that each and every residential development is provided with a childcare facility, as has been the policy of SDCC but rather the recommendation in the Guidelines is that Planning Authorities should actively promote the development of additional childcare places on the basis of need. They provide that there is a very limited demand for childcare places and no demand for this facility in this or the immediate area, due in part to availability of alternative facilities in the area and the economic downturn. The pattern of development in the area since the making of the CDP has been one of very limited residential construction or occupation and they note the number of vacant residential units.

Appendix 2 of the Childcare Guidelines provides that the threshold should be established having regard to the existing geographical distribution of childcare facilities and the emerging demographic profile of the areas. This provides that any modification to the indicative standard of one childcare facility per 75 dwellings should have regard to the make-up of the residential area i.e. an estimate of the mix of community the housing area seeks to accommodate. It also refers to the results of any childcare needs analysis carried out as part of a county childcare strategy or carried out as part of a local or action area plan or development plan in consultation with county childcare committees, which will have identified areas already well-served or alternatively, gap areas where there is under provision, and will also contribute to refining the base figure.

The First Party provide an analysis is included in Appendix D of the appeal, which provides a survey of current residents in the apartment block and shows that there are only 24 children 2 of which require childcare places. They also estimate based on the demographic profile of the census 2006 that the apartment block would generate a demand for 13 no. childcare places which could be facilitated at other crèches in the area. They note that there are two vacant and three permitted crèche units located within walking distance of the subject site and consider there is an over supply of them in this area. In accordance with the analysis they have presented they consider that it has been established that there is no need for such a facility to cater for the 132 apartments.

However it is considered that this analysis is constrained and that a childcare needs analysis based on the broader criteria in Appendix 2 of the Childcare Guidelines as described above has not been carried out. It has to be considered that the 75 unit threshold has been considerably exceeded in the 132 unit Westend Gate development, which as a new housing development is likely to attract young families, particularly if it were at full capacity. While the principle of residential is acceptable within this land use zoning and in accordance with the pattern of development in the area, it could also be argued that Tallaght is well supplied with apartments, many of which are currently vacant, due to the economic downturn.

It is noted that Section 2.4 of the Childcare Facilities Guidelines also provides advice on appropriate locations for such facilities and this includes new communities/larger housing developments and in existing built up areas and in the vicinity of Neighbourhood, District and Town Centres. This notes that: *Those which contain vacant units are under pressure to convert to residential use. The Development Plan should have an objective to safeguard the retention of this resource as appropriate locations for small-scale mixed-use development, in particular childcare facilities.* Tallaght Town Centre Local Area Plan (2006) provides for the promotion of the Centre as a vibrant and desirable place to live, work and visit. It also encourages a diverse range of land uses and supports community facilities. Section 5.3 refers to Quality of Life and supports land use mix, residential mix and tenure. It could be considered part of life balance to have childcare facilities available for local residents, rather than having to travel a distance to other such available facilities. However this proposal is considered on its merits and regard is had to the concerns of the First Party about the viability of the existing use, precedent cases and the design and layout of the proposed development.

9.2 Material contravention and Proposed change of use

Reference is made to material contravention of planning in the Council's first reason for refusal which is concerned that the proposed change of use would materially contravene, Section 1.322xii Policy SCR33 of the SDCCDP 2010-2016 which provides:

It is the policy of the Council that any change of use permitted for purpose built childcare facilities in new developments will be temporary in nature and for community purposes only.

Section 34(6) of the Planning and Development Act 2000 sets out the procedure under which a planning authority may decide to grant permission for such a development. This has subsequently amended by Section 23 of the Planning and Development

(Amendment) Act 2010. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc, where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.

The First Party considers that there is a conflict with childcare policies under section 1.3.21 of the SDCCDP. They ask the Board to consider how a policy, which seeks to keep a childcare unit, even when it has been shown that it will continue to be vacant in the long term is consistent with objectives of improving residential amenity. They provide that permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the CDP. However while there is a pattern of permissions for residential, mainly apartment type developments in the area, some of which include crèches, there has not been a pattern of permissions for change of use of these crèches to residential accommodation.

9.3 Precedent cases

The First Party refers to planning precedent cases where the Board granted permission for a change of use from crèche, in cases where there was little demand for childcare places and alternative provision in the area. Issues of promoting urban regeneration and development were also considered. They refer in particular to PL29S.234100, which relates to a change of use of a crèche facility to a shop in Chapelizod. The gross floor area affected by the proposed change of use was 68.5sq.m.considerably less than the current unit, which is 199sq.m. In this application permission was granted for a change of use from approved crèche use (planning RegRef.3718/99) to retail use at Unit 1, Block B, The Weir/The Island, Martin's Row Chapelizod. It is noted that condition no.2 of the Board's permission restricted the premises to the sole use as shop.

It is considered that could be argued that an appropriately sited shop would provide a facility for the residents of an apartment block, whereas the use of the proposed unit as two no. apartments will provide a permanent residential use of a permitted purpose built crèche (not yet internally fitted out but with enclosed associated play area at the rear), which therefore would not comply with Policy SCR33 above. It is considered that this would have little to add to the vibrancy of the frontage, which has a disabled access ramp and is close to the access to the apartments.

Other precedent cases where a change of use from a crèche was permitted and referred to by the First Party include PL24.226516 and PL86.219224. In the former case the Board granted permission for a change of use from crèche to 2 apartments on the ground floor including alterations to elevations and all associated site works at Lismore Co. Waterford. In Section 7 of the Inspector's Assessment it was noted that the no. of units proposed in the first instance was below the 75 unit threshold set out in the Childcare Guidelines. This referred to the parent permission Reg.Ref.PD05/530 where permission was originally granted on the subject site for 61no. residential units and a crèche facility.

In PL86.219224 the Board granted permission for a change of use from crèche to private members gaming club at South Quay, Wicklow Town. In that case the Inspector noted that the existing crèche was an unauthorised use and the gaming club was considered to be not inconsistent with the character of the area.

While regard is had to the issue of precedent the above cases are not considered to be of particular relevance and each application must be considered on its merits depending on its particular circumstances. Reason no.3 of the Council's refusal concerns precedent. It is noted that the First Party does not consider that the change of use to residential would result in an undesirable precedent in this case. However I am not satisfied that it has been demonstrated that the proposed apartment use would be preferable in this case, having regard to the proper planning and sustainable development of the area. It would mean that there would then be 134 apartments, with no facilities provided in the block other than residential accommodation. It is noted that the First Party provides that there is no demand for crèche facilities in the area, and they refer to vacant crèches in the area. There is therefore the consideration that if permission is granted in this case that it could set a precedent for change of use to residential of other such vacant crèches in the area.

9.4 Design and Layout and Impact on the Character and Amenities of the area

The application submits proposals to convert this unit into 2no. 2bed self contained apartments A and B. The floor areas of the apartments are 92 and 96sq.m which exceed the 73sq.m minimum floor area for apartments as given in the 'Sustainable Urban Housing: Design Standards for New Apartments' DoEHLG Sept 2007. The internal room sizes appear to generally comply with or exceed the minimum standards provided. It is however of note that apartment B does not appear to include a storage area and a minimum of 6sq.m should be provided. Having regard to private amenity space both apartments are shown to include terraces. Apartment A has the larger terrace at c.25sqm. Apartment B has a smaller terrace shown 7sq.m, which is in accordance with the minimum standard in the Guidelines. However its amenity/privacy value is less attractive than Apartment A, which faces the courtyard area at the rear, in that the frontage and terrace area face the existing disabled ramp to the entrance to the apartments, and the busy road frontage. It is considered that this would be contrary to Section 1.4.19i Policy SN16 of the CDP, which provides *that the design of new residential development takes account of privacy and ensures high quality and sustainable amenity in homes.*

Both apartments will be single aspect, as are some of the adjoining apartments in this block. It is noted that these were constructed prior to the Apartment Guidelines 2007. Section 5.5 of these Guidelines notes that dual-aspect apartments are likely to maximise the availability of sunlight, and should be the norm, but that this solution may not always be possible (e.g with corner units). In this case the single aspect apartments face east or west, which is preferable to north facing. Section 1.4.18iv of the 2010-2016 CDP also provides that Dual Aspect shall be the norm and that single aspect units must demonstrate that there is significant planning gain elsewhere within the proposal to justify the permission and where single aspect units are proposed they should be south facing. It provides that there must be a demonstrable case in terms of benefit to the layout, consideration of the unit size and its southern orientation.

In this case the First Party provides that the vacant existing unoccupied crèche unit is a target for vandalism and anti-social behaviour and to resolve this issue Glan Developments Ltd are now seeking a change of use of the redundant crèche unit to residential use and that they will provide a more viable and active streetscape than the current vacant unit.

It is noted that the First Party consider that the outdoor play area is unsuitable in view of the balconies above, however it could also be argued that it faces the courtyard area which includes a play facility and that the balconies provide a level of surveillance. It is of note that the Plans also propose the removal of the existing railings which currently surround the enclosed outdoor play area for the crèche facility, and the incorporation of part of this area into the longer terrace area for Apartment A, with the area shown shaded in green to be taken in charge by the management company. It is recommended that if the Board decide to permit that it be conditioned that this area shown shaded green be incorporated into the existing courtyard area at the rear of the units.

9.5 Access and Parking

The First Party are concerned that there is a lack of safe parking for the crèche or drop-off/pick-up facilities. They consider that car parking facilities in Tallaght Town Centre are remote from the site there is no safe and convenient drop-off and pick-up facilities and there is a hazardous route to the site, and they consider that these aspects put potential operators off. They note that the location of the crèche at a busy junction within Tallaght town centre makes this unattractive as a location for a childcare facility. As part of its overall approach Policy SCR 31 relates to the provision for Parking & Drop-off facilities and provide that these will be required in childcare facilities.

Access to the underground parking area for the apartments is to the south of the unit. Parking spaces have not been shown on the plans submitted for the crèche. In view of the enclosed gated nature of the underground parking area this area would not be available for drop-off/pick-up. There is no drop off parking facility along the site frontage, which is in proximity to a busy road network in the centre of Tallaght. There is a significant parking area associated with The Square Shopping Centre to the east, within walking distance of the site. It was noted on the site visit that while this is paid, the first two hours are free. There are traffic lights and a pedestrian crossing in proximity to the road frontage of the site, and while the route is busy it is not considered to be particularly hazardous. While the crèche is for use of residents in the apartment block it is noted that the general area is also serviced by public transport.

Section 2.2.32 of the CDP refers to the provision of car parking and Table 2.2.4 refers to General Car Parking Standards Related to Land Use. For pre-school facilities/crèches this is 1 space per 6-8 children, for apartments (including duplex) this is 1-2 spaces depending on no. of bedrooms. The Council's Road Department recommended refusal in view of the existing deficiency in parking space provision with no spaces allocated for the creche. They noted that under Reg.Ref.SD04A/160 which was permitted by the Board, Ref.PL06S.207404 refers, the number of apartments was increased to 132 with no corresponding increase in the number of parking spaces. Section 9.1 of the Inspectors Report considered that as the site is within the Tallaght town centre and is in close proximity to a quality transport facility

(LUAS) that a relaxation in parking standards could be applied in this instance. It is considered that based on these issues and the Parking Standards that the proposed use as apartments would not increase any existing parking deficiency.

9.6 Other issues

South Dublin County Council has responded that in the event of a decision to grant permission cognisance should be had to whether the permitted development is within the area for which supplementary development contributions are applicable in relation to the Metro West Supplementary Development Contributions Scheme and/or the Kildare Route Project Supplementary Development Contributions Scheme. They provide that details of the scheme are available from South County Dublin County Councils website at the Planning Homepage in the Planning Applications area. They recommend that conditions should be included in relevant cases. In this respect the Observations of the Railway Procurement Agency are noted. Also that conditions relating to security (under Section 34(4)(g) of the Planning and Development Act, 2000(as amended) should be applied where appropriate, particularly in the case of residential developments of one residential unit and above. This relates to *conditions for requiring the giving of adequate security for satisfactory completion of the proposed development.*

Having regard to these issues relative to contributions it is noted that while there is an exemption relative childcare facilities in the South Dublin Development Contributions Scheme 2010-2016, this would not apply to the change of use to residential apartments. Therefore if the Board decides to permit I would consider that conditions regarding development and supplementary contributions should apply. As this is for a change of use of an existing unit I would also consider that if the Board decides to permit a condition relative to Section 34(4)(g) should apply to ensure satisfactory completion of the works.

10.0 CONCLUSION AND RECOMMENDATION

Having regard to the above it is considered that the proposed use is acceptable in principle within this land use zoning and in accordance with the pattern of apartment development in the area. However it is not considered that it has been adequately demonstrated in accordance with the criteria in Appendix 2 of the Childcare Facilities Guidelines 2001 that the crèche is no longer necessary for the existing 132no. unit apartment block. It is also not considered that the proposed change of use complies with Section 1.3.22xii, Policy SCR33 of the CDP 2010-2016 in that the apartment use would not be of a temporary nature or for community purposes only. Also the proposed apartments would be single aspect and it is not considered that they would be in accordance with the exceptions as per Section 1.4.18iv of the CDP, which along with the Apartment Guidelines 2007 supports dual aspect. It is also noted that the lack of storage space for Apartment B would not be in accordance with these Guidelines and that the aspect of this apartment would not provide a quality private amenity space. It is considered that this proposal could set a precedent for this type of change of use of other vacant crèches in the local area.

In view of the above, it is recommended that permission be refused for the proposed change of use for the reasons and considerations below.

11.0 REASONS AND CONSIDERATIONS

1. The proposed change of use of this unit from child care facility to 2no. apartments would be a long term use not connected to community purposes and as such would not comply with Section 1.3.22xii, Policy SCR33 (Change of use of Purpose Built Childcare Facilities) of the South Dublin County Council Development Plan 2010-2016. Having regard to the purpose of this unit to provide a childcare facility for the existing 132no. apartments at Westend Gate, it is not considered that it has been adequately demonstrated that the threshold for the provision of such facilities has been exceeded in accordance with Appendix 2 of the Childcare Facilities Guidelines for Planning Authorities. The proposal would, therefore, be contrary to the Childcare Facilities Guidelines for Planning Authorities issued by the Department of the Environment and Local Government in June, 2001 and to Policies SCR33 of the South Dublin County Development Plan 2010-2016 and to the proper planning and sustainable development of the area.
2. The provision of the proposed single aspect apartments would be contrary to Section 1.4.18iv of the CDP, which only supports south facing single aspect apartments. Having regard to its location and outlook it is not considered that quality private amenity space will be provided for Apartment B and this is not in accordance with Policy SN16 of the South Dublin County Development Plan 2010-2016. Also the floor plans do not include adequate storage area for this apartment which is contrary to the minimum standards provided in the Appendix of the 'Sustainable Urban Housing: Design Standards for New Apartments' issued by the Department of the Environment, Heritage and Local Government in September 2007. The proposal would, therefore, seriously injure the residential amenities of future occupiers and would be contrary to the proper planning and sustainable development of the area.
3. The proposed change of use would set an undesirable precedent for other similar developments, having regard to other vacant child care facilities in the area, which would in themselves and cumulatively be harmful to the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.

Angela Brereton,
Inspector,
28th of June 2011