



An
Bord
Pleanála

Board Direction
BD-015644-24
ABP-317010-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/02/2024.

The Board decided to grant permission by a majority of two to one, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the Fingal Development Plan 2023-2029, the 'RS' zoning of the site providing for residential development and the protection of residential amenity, policy objectives CIOSO27 and CIOSO28 encouraging the provision of appropriate childcare facilities in appropriate locations and as an essential part of new residential developments, the nature of the proposed development in Bracken Park Drive which is not a new development, the submissions concerning the prolonged unsuccessful marketing efforts by the developer to establish this particular creche facility at this particular location indicating the facility is not an appropriate facility in an appropriate location, the Board considered, subject to compliance with the conditions set out below, the proposed change of use of a vacant creche facility to a house would be in accordance with the policies and objectives of the Fingal Development Plan 2023-2029 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board acknowledged the provisions of the development plan and national guidance regarding childcare facilities. In recognising that the decision would result in the absence of a creche facility to serve the residential development as originally

permitted, the Board however took the view that the location can no longer be considered a new development, and that the developer has provided information concerning significant efforts over an eight-year period to market the facility, resulting in fifty enquiries, six viewings and no bids. The Board also had regard to the supporting statement by Hooke and McDonald Auctioneers detailing the inefficiencies of the current layout and potential modifications that would need to be undertaken to make the permitted childcare facility viable and of interest to childcare operators. In noting the further childcare capacity in the vicinity of Bracken Park, the Board considered, in this particular instance, that the proposed change of use would bring a vacant building back into use and represented a more sustainable use of the building.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The conditions of the grant of permission made under planning authority Reg. Ref. FW21A/0095 shall be complied with in full in the course of the development, save for any changes shown on the plans submitted with this application.

Reason: In the interests of proper planning and sustainable development of the area.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or

on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Board Member Eamonn James Kelly **Date:** 01/03/2024
Eamonn James Kelly