



Board Direction

Ref: 06D.RL3446

The submissions on this file and the Inspector's report were considered at a Board meeting held on June 14th 2016.

The Board decided, as set out in the following Order, that the use of a primary school for grind classes in the evenings, nights, weekends, and at holiday times at Oatlands Primary School (Scoil Mhuire), Woodland Avenue, Stillorgan, Co. Dublin, is development and is not exempted development.

The Board also decided that this question was, in essence, question no. 2, as submitted originally to the planning authority by the referrer, and the Board also concurred with the planning authority that question no. 3, as submitted to the planning authority by the referrer, was not within the scope of Section 5.

The Board further noted that question no. 1, as submitted originally to the planning authority by the referrer, and in respect of which the planning authority declared not to be within the scope of Section 5, was not referred to the Board by the referrer and therefore did not fall to be considered by the Board.

Board Order as follows:-

WHEREAS questions have arisen as to (1) whether the Board of Management of Oatlands Primary School (Scoil Mhuire) had complied with the requirements of condition 4 of planning permission register reference number D13A/0113, (2) whether the use of the primary school in the evenings, nights, weekends, and at holiday times by the Dublin School of Grinds with the attendant volume, intensity and duration of vehicular traffic that it generates is or is not an exempted development and (3) whether the unilateral change in traffic flow and management, by closing off all access to the internal avenue thereby forcing school traffic up and down Oatlands Avenue, link road and Drive (which are narrow residential cul de sacs), is an authorised development, all at Oatlands Primary School (Scoil Mhuire) Woodland Avenue, Stillorgan, Co. Dublin;

AND WHEREAS the Woodlands Stillorgan Residents' Association requested a declaration on these questions from Dun Laoghaire Rathdown County Council on the 6th day of November 2015, and the Council issued a declaration on the 3rd day of December 2015, stating that the matters included in questions 1 and 3 were not within the scope of Section 5 of the Planning and Development Act, 2000, as amended, and that the matter included in question 2 was not development, in that it did not constitute a change of use that would require planning permission.

AND WHEREAS the Woodlands Stillorgan Residents' Association referred this declaration for review to An Bord Pleanála, in respect only of questions 2 and 3, on the 5th day of January, 2016.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 5 (1) and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) The planning history of the site, and the extensive documentation submitted with the referral.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The established/permitted use of the subject premises is as a primary school, as established in the 1950's and as extended pursuant, inter alia, to planning permission register reference number D13/01113;
- (b) This use as a primary school had a particular pattern of usage, including traffic movements at certain times during the mornings and afternoons on weekdays through entrances both onto Oatlands Avenue/Woodlands Avenue and out onto the old Dublin Road through the adjoining Oatlands Secondary School.
- (c) On the basis of the evidence submitted by the parties to this referral, the use of the primary school as a grind school for grind classes since 2014 has involved significant traffic movements at other times than those that had been established by the primary school, including in the evenings, nights and at weekends and during holiday periods, and such movements have taken place principally through the existing entrance onto Oatlands Avenue/Woodlands Avenue.

- (d) The use of the established/permitted primary school as a grind school at such times, and involving such additional traffic movements at such times, constitutes an intensification of the primary use of the subject premises as a primary school, which use as a grind school is, in the particular circumstances of this case, a change of use.
- (e) This change of use, having regard to the location of the subject site largely within a residential area, having regard to the use of the entrance onto Oatlands Avenue/Woodlands Avenue, which is a narrow residential road with limited parking and carriageway capacity, and having regard to the pattern and times of traffic movements, raises external issues that are material in planning terms, and accordingly this use as a grind school is a material change of use in this particular instance, and is therefore development.
- (f) There are no exemptions provided, in the Planning Acts and Regulations, by which such material change of use would constitute exempted development, and
- (g) The question as to whether the unilateral change in traffic flow and management, by closing off all access to the internal avenue thereby forcing school traffic up and down Oatlands Avenue, link road and Drive (which are narrow residential cul de sacs), is an authorised development, is a matter of compliance with the terms and conditions of planning permission register reference number D13/0113, or a matter for enforcement of such planning permission, and is therefore not a matter within the scope of a referral under Section 5 of the Act.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the use of a primary school for grind classes in the evenings, nights, weekends, and at holiday times at Oatlands Primary School (Scoil Mhuire), is development and is not exempted development.

Board Member: _____ Date: 15th June 2016
Philip Jones