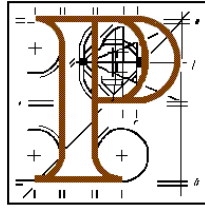


# An Bord Pleanála



## Inspector's Report

**PL29N. 245771**

**DEVELOPMENT:** Change of use from retail to Montessori  
**ADDRESS:** 64 Churchwell Drive, Balgriffin, Dublin 13

### PLANNING APPLICATION

**Planning Authority:** Dublin City Council  
**Planning Authority Reg. No.:** 3524/15  
**Applicants:** Laima Power  
**Application Type:** Permission  
**Planning Authority Decision:** Grant permission subject to conditions

### APPEAL

**Appellants:** Nichola Higgins  
**Type of Appeal:** 3<sup>rd</sup> party vs. grant  
**Observers:** None  
**DATE OF SITE INSPECTION:** 26<sup>th</sup> January 2016  
**INSPECTOR:** Stephen J. O'Sullivan

## **1.0 INTRODUCTION**

- 1.1 This report deals with a third party appeal against a decision of Dublin City Council to grant permission to change a shop to a Montessori.

## **2.0 SITE**

- 2.1 The site lies in a recently established suburban area c 9km north-east of Dublin city centre. It comprises the ground floor retail unit in a four storey apartment building. It has a stated area of 88m<sup>2</sup>, and is currently vacant. The adjoining ground floor corner unit to the north is the marketing suite and management office for the apartment scheme. The apartment building is laid out as a perimeter block with communal open space to the rear. The unit faces Belmayne Avenue, which has on-street parking that is dedicated to particular apartments in the scheme, except for the 2 spaces immediately in front of the site that are dedicated for the retail unit. There is a turning head for a local access road just to the north of the site, parallel to which runs the distributor road for the area. There is no vehicular direct link from the local access road to either the distributor road or Belmayne Avenue. The land on the other side of the distributor road has been laid out as a public park. The land on the other side of Belmayne Avenue has not been developed.

## **3.0 PROPOSAL**

- 3.1 It is proposed to use the unit on the site as a sessional Montessori facility. The covering letter submitted with the application stated that the hours of operation would be from 0930 to 1230. It would cater for 20 children. The children would use the play area associated with the overall development for 20 minutes twice a day. There would be no food preparation on the premises. It is proposed to change one door on the façade to a window and to erect non-illuminated signage.

## **4.0 POLICY**

- 4.1 The *Guidelines for Planning Authorities on Childcare Facilities* issued by the minister in 2001 state a policy in favour of providing more childcare facilities. Section 2.4 states that new communities with larger housing developments and neighbourhood centres are appropriate locations for them
- 4.2 The site is part of an area zoned as a Strategic Development and Rejuvenation Area under objective Z14 of the Dublin City Development Plan. Childcare facilities are permissible under the zoning. Appendix 20 of the plan provides guidelines for childcare facilities. Vacant premises in neighbourhood centres would provide ideal childcare premises provided that they have access to a safe outdoor play area. It refers to the childcare regulations which require 2m<sup>2</sup> of clear floor area for sessional preschool services. The Clongriffin-Belmayne Local Area Plan 2012-2018 applies. Section 11.5 has statements in favour of the provision of childcare facilities.

## **5.0 HISTORY**

5.1 No previous planning applications were cited by the parties.

## **6.0 DECISION**

6.1 The planning authority decided to grant permission subject to 8 conditions, none of which would significantly alter the proposed development.

## **7.0 REPORTS TO THE PLANNING AUTHORITY**

7.1 Submission – An objection was made to the planning authority on grounds similar to those raised in the subsequent appeal.

7.2 Planner's report – The proposal complies with the zoning of the area. The limited use of the communal open space on weekdays only would be acceptable. The Roads and Traffic Division consider that access arrangements acceptable. A grant of permission was recommended.

## **8.0 GROUNDS OF APPEAL**

8.1 The grounds of appeal can be summarised as follows-

- The premises does not meet the requirements for a sessional Montessori set out in appendix 20 of the development plan. It would be on a busy corner and would not be suitable for reasons of traffic safety. The entrance is from a cul-de-sac where the parking spaces are already allocated to apartments, so there would be no drop off facilities to serve the Montessori, other than 2 spaces allocated for retail. This would result in traffic congestion and double parking that would threaten the safety of children.
- The application does not state that an outdoor play area will actually be provided. There is no open space attached to the unit and the use of the communal open space would have a negative impact on residential amenity. The proposed facility would therefore contravene the childcare regulations and the best practice design guidelines issued by the Department of Children and Youth Affairs which recommend a minimum of 9m<sup>2</sup> of open space per child, which in this case would require 180m<sup>2</sup> of open space.

## **9.0 RESPONSES**

9.1 The planning authority's response referred to its previous planning report

9.2 The applicant's response can be summarised as follows-

- It is not clear that the person making the appeal is the same person who made the observation to the planning authority on the application or what their intentions are. The grounds of appeal are spurious. The board should consider whether to dismiss the appeal under section 138.
- The site is in an area where substantial residential development has occurred and is planned, so the need for the proposed childcare facilities is not in doubt. It would mainly serve children from the neighbourhood. The facility would be on a cul-de-sac and most children would arrive on foot. There are 2 parking spaces dedicated to this unit within 5 metres of its door. Both Churchwell Drive and Belmayne Avenue are in the 50kph zone and are appropriate and safe roads.
- The children using the facility would have access to a small park of 1,300m<sup>2</sup> enclosed by the perimeter block. There are 2 formal playgrounds within walking distance within easy reach of the propose facility. It would not have a negative impact on residential amenity. The internal area is fully compliant with the childcare regulations.

9.3 The appellant's further response stated that the applicant had not demonstrated the legal right to use the communal open space. It re-iterated objections on the basis of traffic and inadequate space under the childcare regulations.

## **10.0 ASSESSMENT**

10.1 The stated grounds of the appeal raise planning issues that objectively relate to the proposed development. I would not recommend that the board dismiss the appeal, as this would impute motivations to a party to the appeal when it is not necessary to so do.

10.2 Nonetheless, the grounds of appeal are not persuasive. The location of the proposed Montessori in a premises designated for retail use at a central location in a new residential area is supported by the childcare guidelines and appendix 20 of the development plan. It would also be in keeping with the zoning of the site. The site is within walking distance of a substantial residential population which is likely to grow as the area is developed in accordance with the local area plan. The roads layout around the site is well designed and accords with contemporary standards. In these circumstances the parking and access arrangements for the proposed development would be safe and convenient. They would not threaten the safety of the children attending the facility or anyone else. The children attending proposed facility would have convenient access to the communal open space serving the building in which it would be located. Their use of that open space for outdoor recreation would be in keeping with its intended purpose. It would not constitute a threat to residential amenity and should not be regulated by planning conditions. As an occupant of the apartment building, it is reasonable to assume that the childcare facility would have access to its open space. The appellant has not provided any information that would be sufficient to undermine the applicant's assertion that she has the requisite legal interest to carry out the proposed development. The site is also close to a large public park, which would be readily accessible from the proposed facility provided proper supervision was in place. There is no reason to conclude that the premises on the site would not be suitable for the proposed use. Detailed consideration of such matters are, in any event, a matter to be addressed under the childcare regulations rather than the planning system. The development would not entail substantial buildings works that would threaten residential amenity or which need to be controlled by condition.

10.3 The proposed development would therefore be in keeping with local and national planning policy. It would be suitably located with safe and convenient access and adequate amenity space. It would therefore be in keeping with the proper planning and sustainable development of the area.

## **11.0 RECOMMENDATION**

11.1 I recommend that permission be granted subject to the conditions set out below.

## REASONS AND CONSIDERATIONS

The site is considered suitable for the proposed Montessori, having regard to the advice at section 2.4 of the *Guidelines for Planning Authorities on Childcare Facilities* issued by the minister in 2001, to the Z14 zoning objective that applies to the area and the provisions of Appendix 20 of the *Dublin City Development Plan 2011-2017*, as well as to its proximity to a large and expanding residential population and to open space. The access and parking available at the site are adequate and the proposed development would be acceptable in terms of traffic safety. The proposed development would therefore be in keeping with the proper planning and sustainable development of the area.

## 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 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. Details of all external signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of the amenities of the area/visual amenity

3. Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development and to prevent pollution.

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Stephen J. O'Sullivan  
29<sup>th</sup> January 2016