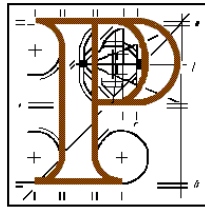


# An Bord Pleanála



## Inspector's Report

**PL06D.246333**

**DEVELOPMENT:-**

Permission for internal alterations and the change of use from office usage to Montessori childcare facility with all associated site works, The Office Building, The Gables, Torquay Road, Foxrock Village.

**PLANNING APPLICATION**

**Planning Authority:** Dun Laoghaire Rathdown County Council  
**Planning Authority Reg. No:** D15A/0842  
**Applicant:** Gillian Deane  
**Application Type:** Permission  
**Planning Authority Decision:** Refuse

**APPEAL**

**Appellant:** Gillian Deane  
**Type of Appeal:** 1<sup>st</sup>-V-Refusal  
**DATE OF SITE INSPECTION:** 12th May 2016  
**Inspector:** Colin McBride

## 1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area of 0.05 hectares, is located in heart of Foxrock Village. The appeal site is located on the northern side of Westminster Court, which provides access to Leopardstown Golf Course and Race Course (west of the site) from Brighton Road. Westminster Court forms a cross road junction with Brighton Road, Torquay Road and Westminster Road to the east of the site. The site is occupied by a two-storey building in office use (currently vacant) with a car parking area to front and vehicular entrance off Westminster Court. Adjoining uses are mainly commercial in nature with a two-storey structure to the east with a café at ground floor level and offices at first floor level. To the south and on the opposite side of Westminster Court is a shop unit and a number of dwellings. To the north are dwellings that front onto Torquay Road and to the west is the access road to a housing development (The Hedgerows). There is pay parking spaces located along either side of Westminster Court, with two of such spaces along the frontage of the site.

## 2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for internal alterations and change of use from office usage (260.37sqm) to Montessori childcare facility (260.37sqm) with all associated site works. The proposal also entails alterations to the internal layout of the existing two-storey office building with provision of two classrooms, toilets and kitchen facilities on the ground floor and another classroom (three in total), staffroom, office and supervised indoor activity area at first floor level. The car parking area to the front of the site (Westminster Court) is to be reconfigured to provide a play area (77sqm) and 4 no. off-street car parking spaces with a space also provided for set down only.

## 3. LOCAL AND EXTERNAL AUTHORITY REPORTS

### 3.1

- (a) Drainage Planning (01/02/16): No objection.
- (b) Transportation Planning (15/02/16): Refusal recommended on the basis of traffic hazard and obstruction of other road users, and the lack of provision of sufficient off-street car parking spaces.
- (c) Planning report (23/02/16): The proposal was deemed to be compliant with zoning policy. The issues raised by the Transportation Section were noted and a refusal was recommended based on the reasons outlined below.

#### 4. DECISION OF THE PLANNING AUTHORITY

##### 4.1 Permission refused based on the following reason.

1. *The lack of provision of adequate off-street parking for the development may lead to inappropriate or illegal parking, would tend to create serious traffic congestion, would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would be contrary to the proper planning and sustainable development of the area.*

#### 5. PLANNING HISTORY

##### 5.1 No planning history on appeal site.

#### 6. PLANNING POLICY

##### 6.1 The relevant plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned 'Objective NC' with a stated objective "to protect, provide for and/or improve mixed-use neighbourhood centre facilities".

##### 6.2 The site is located within the Foxrock Architectural Conservation Area.

#### 7. GROUNDS OF APPEAL

##### 7.1 A first party appeal has been lodged by David Mulcahy Planning Consultants Ltd on behalf of Gillian Deane, Aughavara, Brighton Road, Foxrock, Dublin 18. The grounds of appeal are as follows...

- The appellant outlines the nature and intensity of use proposed.
- It is noted that principle of the change of use is not at issue with the reason for refusal relating to car parking.
- It is noted that proposed on-site parking arrangements are satisfactory in the context of the low traffic volumes in the vicinity of the site. It is noted that from 8:30am onwards and throughout the day (weekdays) traffic levels are not high and that such levels are minimal from 5:15pm onwards (weekdays).
- The applicant/appellant has proposed an alternative layout for 5 off-street car parking spaces perpendicular to Westminster Court (requires loss of two on-street pay parking spaces and ticket machine) and entails an enlarged play area of 86sqm.
- The applicant/appellant indicates they have full control over the parking area to the front of the existing structure on site.

- The appellants note that Part VIII parking in the vicinity has been approved but that the proposal should not be contingent on such parking being in place. It is noted that the norm is that childcare facilities should be self-sufficient in terms of car parking facilities.
- The appeal submission includes a report from Consulting Engineers (DBFL) in support of the alternative layout.

## 8. RESPONSES

### 8.1 Response by Dun Laoghaire Rathdown County Council

- The Planning Authority note that the reason for refusal remains valid with the layout proposed considered unsatisfactory for the turning movements likely to be generated.
- In regards to the alternative layout it noted that such would require access to car parking spaces across the existing footpath with the turning movements generated considered hazardous to pedestrians.

### 8.2 Response by Dun Laoghaire Rathdown County Childcare Committee

- It is noted that the committee is not able to make a formal response on this occasion but do note that car parking appears to be an issue and seem inadequate.

### 8.3 Response by David Mulcahy Planning Consultants Ltd on behalf of Gillian Deane, Aughavara, Brighton Road, Foxrock, Dublin 18.

- It is noted that the revised layout submitted does not entail cars crossing the footpath with a new footpath to be built as shown on the drawings submitted.
- It is noted that the other childcare facility in the area is operating without planning permission and therefore cannot be taken into consideration.

## 9 OBSERVATION

### 9.1 Observation from James Campbell, 22 Hedgerows, Foxrock Village, Dublin 8.

- The observer raises concerns about the proposal for an alternative layout in the context of impact upon the character of an Architectural Conservation Area and in the context adequate public participation.
- The observation notes that the proposal should have been refused on a number of grounds and not just traffic concerns. It is noted that the size of outdoor play area is inadequate for the type and size of facility proposed.

- The observer highlights concerns regarding contents of the appeal submission refuting the claim that traffic levels in the vicinity of the site are low and questioning the legitimacy of relying in spaces not within the site boundary or control of the applicant. It is also noted that there are existing childcare facilities in the area as well as identifying concerns regarding the impact of external alterations in the context of the character of the ACA.
- The observer is also critical of the Consulting Engineers (DBFL) report in regards to claims in reaction to public transport and car parking.

## 10. ASSESSMENT

10.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development  
 Architectural heritage/visual amenity  
 Traffic Impact  
 Other issues

### **10.2 Principle of the proposed development:**

10.2.1 The proposal is for internal alterations and the change of use from office usage to Montessori childcare facility. The site is located in the centre of Foxrock village and the site is zoned 'Objective NC' with a stated objective "to protect, provide for and/or improve mixed-use neighbourhood centre facilities". The proposal is consistent with the zoning objective. I am satisfied that the principle of the proposed development is satisfactory and subject to being acceptable in the context of visual amenity, the amenities of adjoining properties and traffic safety, the proposal would be in accordance with the proper planning and sustainable development of the area. These aspects of the proposal are to be assessed in the following sections of this report.

10.2.2 According to the information on file the proposal is to cater for 42-44 children. Opening hours are 9:00 to 18:00 with classes operating on a staggered timetable (09:00-12:30, 12:30 to 14:00, 09:00 to 14:30 and 09:00-18:00). It is noted that the facility opens at 8am but children do not arrive until 9am. Staff numbers are noted as being 5 persons. I would note that the location of the proposal is appropriate on the basis that it is located where there is a large catchment area of dwellings within walking distance of the appeal site and the development would not be solely dependent on vehicular traffic. I would consider that the location of the development is an appropriate location for such development and is a local service that is in keeping with the nature of uses and zoning at this location.

### **10.3 Architectural heritage/visual amenity/adjoining amenity:**

10.3.1 The proposal is for internal alterations and a change of use from office usage to Montessori childcare facility. In regards to overall visual impact, the proposal does not entail a significant change in appearance of the existing structure with all alteration being internal ones. The only alterations are in the car park area to the front, which is to be revised to provide for a play area and reconfigured to provide four off-street car parking spaces and a set down space if required. The existing entrance is to remain and stone wall along the front boundary is along to be retained. It is proposed to implement screen planting to the rear of the existing wall to screen the play area from the road. I would consider that the overall visual impact of the proposal to be acceptable in the context of the visual amenities of the area and also acceptable in the context of the character and setting of the designated Architectural Conservation Area.

10.3.2 In regards to the amenity of adjoining properties, the adjoining uses ( east) are commercial in nature with the structure to the east having a café at ground floor level and office at first floor level. The office use at first floor level of the adjoining building is accessed through the same access as the building on the appeal site; however the adjoining office use has a separate parking provision to the rear of the building on the appeal site. There are residential uses to the west, north and opposite side of Westminster Court. The opening hours of the development are such that it would have no adverse impact on residential amenity. I am satisfied that nature of the use is in keeping with adjoining uses at this location and is compatible with the zoning of the site. In this regard I am satisfied that the operation of the proposed development would have no adverse impact on the amenities of adjoining properties.

### **10.4 Traffic impact:**

10.4.1 Permission was refused on the basis of one reason, which was that “the lack of provision of adequate off-street parking for the development may lead to inappropriate or illegal parking, would tend to create serious traffic congestion, would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would be contrary to the proper planning and sustainable development of the area”. The planning report notes that the requirement under Development Policy is 1 space per staff member giving a requirement of 5 spaces for the proposed development (has remained the same under the Dun Laoghaire County development plan 2016-2022). It was considered that there was inadequate off-street parking provision.

10.4.2 Given the appropriate nature of the location, central to the village and in a highly accessible location in terms of walking and cycling distance from a sizeable residential catchment, I would consider that the level of parking provided on site is acceptable and would consider application of the minimum

standard of 5 to be onerous. In addition I would note that there is on-street car parking and parking control measures at this location. I would also note that the staggered nature of opening hours would mean that traffic movements are not occurring all at once. In the event of grant of permission being considered I would note that the original site layout should be approved. The applicant/appellant submitted a revised layout to address the reason for refusal that would provide for five car parking spaces perpendicular to the road. Firstly this layout entails the loss of two on street car parking spaces and such would be net loss of parking spaces at this location (including off-street and on-street). Also the layout would entail traffic movements including reversing across the footpath (the new footpath proposed on the revised drawings does not link into the existing, which is still likely to be used and is behind the proposed spaces) and such would be contrary the recommendations of the Design Manual for Urban Roads and Streets and a hazard for pedestrians. I consider the site layout as originally proposed is acceptable and provides sufficient levels of car parking in the context of the appropriate location of the proposed development. Having regard to such, I am satisfied that the proposed development is acceptable in the context of traffic safety and convenience.

## **10.5 Other issues:**

10.5.1 The observation questions the level of space provided for the outdoor play area. The play area is to be used on staggered basis with not all children using it at one. The maximum number of children/class using the outdoor play area is to be 22. The play area is 77sqm and provides 3.5sqm per child. According to the information on file this is based on the requirement of childcare regulations. Having examined the Childcare Facilities Guidelines there is no guidelines on outdoor space apart from the requirement to provide such with minimum floor area figures per child for indoor space (proposal is compliant). There may be other bodies and regulations that determine such and that the operators must have to regard to. In the case of the proposal development it would appear to be compliant with the recommendation of the Childcare Facilities Guidelines and in this regard the proposal is satisfactory.

10.5.2 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **RECOMMENDATION**

I recommend a grant of permission subject to the following conditions.

## **REASONS AND CONSIDERATIONS**

Having regard to NC (Neighborhood Centre) zoning objective as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, the established pattern of development and availability of on street and off-street car parking in the vicinity of the site and the location of the appeal site with walking distance of a significant residential catchment area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the existing property or of property in the vicinity and would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application on the 22<sup>nd</sup> day of December 2015, 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 and the development shall be retained in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. No more than 44 children shall be accommodated at any one time in the childcare facility and the hours of operation shall be limited to between 0900 hours and 1830 hours Monday to Friday only.

**Reason:** To protect the amenities of property in the vicinity of the site.

3. Water supply and drainage arrangements, including the disposal of surface water, shall be in accordance with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

4. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional advertisement signs other than those indicated on the lodged drawings (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

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Colin McBride  
23rd June 2016