



An  
Bord  
Pleanála

## Inspector's Report PL01.246623

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<b>Development</b>	Extension to language school and associated works at 'The Schoolhouse' 46 Idrone Park, O'Brien Road, Carlow.
<b>Planning Authority</b>	Carlow County Council
<b>Planning Authority Reg. Ref.</b>	16/65
<b>Applicant</b>	Ruth and Terry Coffey, T&R Language
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Appellant</b>	Ruth and Terry Coffey, T&R Language
<b>Type of Appeal</b>	First v Condition
<b>Date of Site Inspection</b>	None
<b>Inspector</b>	Mairead Kenny

## 1.0 Site Location and Description

The site location and layout are assumed to be as described on the application drawings. I did not inspect the site in view of the nature of the appeal.

## 2.0 Proposed Development

The details of the proposed development are:

- extension to existing language school to provide 2 no. additional classrooms and minor alterations.

The application submissions include a letter from Eire Og a local GAA club which indicates that the existing language school and the club have an agreement that should there be a need for overflow parking they may avail of the nearby club car park.

The extension at first floor level is of stated area of 67.2 square metres.

## 3.0 Planning History

Planning Reg. Ref. 10/6316 relates to a change of use from place of worship to a tuition centre and for works. Granted permission on 25<sup>th</sup> May 2010 subject to 13 conditions. The total floor area of the development was subject of the application for a change of use - 233 m<sup>2</sup>.

These conditions include contributions under the Scheme calculated on the basis of the amount payable for commercial development for the floor area of 233 m<sup>2</sup>.

- €6,992.33 (towards community / amenity) – based on a rate of €30.1 per m<sup>2</sup>
- €2798.33 (towards roads) – based on a rate of €12.01 per m<sup>2</sup>
- €6,992.33 (towards ancillary services) – based on a rate of €2.90 per m<sup>2</sup>.

The planner's report noted that the requirement for car parking under the development plan was 6 no. spaces (one per classroom plus two others). As there was room for 8 spaces the development was deemed to be acceptable on the basis of parking provision. Permission was recommended.

#### 4.0 **Planning Authority Decision**

The Planning Authority decided to grant permission subject to conditions:

- Condition 5 – contribution of €15,832 in lieu of the provision of 2 no. car parking spaces
- Condition 6 – contribution of €233.18 in respect of roads.

#### 5.0 **Grounds of Appeal / Observations**

##### 5.1. Grounds of Appeal

The first party appeal is against condition 5 only and states:

- the application for the original change of use on site did not require additional car parking as per the development plan in place at the time
- the Local Authority will not provide any parking spaces near the site as it is not in the town centre
- an arrangement with a local GAA club 100m away is in place and if additional parking is needed it will be located at that site nearby
- an informal arrangement also is in place with a neighbouring house if necessary
- the additional cost means that the development is uncertain.

#### 6.0 **Responses**

##### 6.1. Planning Authority response

The Planning Authority provides a breakdown of the calculated contribution. There are 11 no. car parking spaces on site. Under Planning Reg. Ref. 10/6316, 6no. car parking spaces were required and 8no. provided. Under the current development plan standards one space per staff member and 5 additional spaces are required, a total of 13 spaces. There is a shortfall of 2no. parking spaces. A relaxation of standards cannot be applied in this location. The arrangement with Eire Og cannot be enforced.

6.2. First party further comment reiterates the points made in the appeal.

## 7.0 **Policy Context**

The provisions of the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area apply. Car parking standards for further and higher educational institutions are – 1 per staff member plus 5 additional spaces.

## 8.0 **Assessment**

I consider that the basis of the appeal which is related to the availability of parking off-site should be rejected. I agree with the consideration of this matter by the Planning Authority which is that the off-site spaces cannot be relied upon and this matter is not enforceable.

I note the first party's comments relating to the provision by the local authority of parking spaces at this location outside the town centre. That possibility is not a matter which the Board should take into account. The matter before the Board relates solely to the application of the Scheme, not to the future use of funds.

The subject development is an extension of 67m<sup>2</sup> at first floor level to provide two additional classrooms. The application documents show a site layout with 11 no. car parking space.

Regarding the permitted use of the building for educational purposes I note as follows in relation to the permitted development:

- the application for which permission was granted under Planning Reg. Ref. 10/6316 was for change of use from place of worship to tuition centre
- nothing in the application notices or drawings limited the area for which change of use was proposed
- application drawings showed two classrooms on the ground floor and did not define the use of the first floor
- fees were paid in the making of the application for a change of use of the first floor
- the contributions charged under conditions 11, 12 and 13 were also calculated on the basis of 233 square metres
- I consider that the permitted educational use related to the entire building of stated floor area of 233 square metres.

I note the comment in the Planning Authority submission in the current appeal and I refer to the planner's report in connection with the original permission. I consider that there is a lack of clarity relating to the exact nature of the previous permission. On the one hand for the purposes of the parking requirement there is reference to the number of classrooms (4 no.), plus an additional allowance of 2no. spaces, which was the relevant requirement at the time. Eight spaces were available. The permitted development thus incorporated as surplus of parking (2 no. spaces) under the standards at the time.

The application drawings submitted under Planning Reg. Ref. 16/65 shows the use of each of the rooms as being related to student / staff functions including two existing classrooms, a library, a common room, 3 no. offices and other small spaces. The permitted two storey extension provides for two additional classrooms. It is

stated that the rooms are in reality operated as including 4 no. classrooms at present.

I consider that the material fact for the Board to consider is the development subject of the current application. That is the additional two classrooms. In terms of the parking generated by the additional two classrooms the current development plan requirement is one per staff member plus 5 additional spaces, a total of 7 spaces.

There are stated to be 11 spaces on site, which is not subject of dispute. The matter for the Board to determine is the shortfall which arises from the proposed additional classrooms. I do not consider that this is a particularly straight forward matter.

*Option A* - I first refer to the method employed by the Planning Authority. The Planning Authority considered the existing and proposed development in totality and on the basis of 8 teachers as indicated in the applicant's submissions calculated that the relevant parking requirement was 13, a shortfall of 2 no. spaces. The applicant however indicated that the classes were staggered and teachers not in situ at the one time.

*Option B* - This option would be to calculate the requirement based on taking the two classrooms into account only. I do not consider that the additional 5 spaces would be attached as the demand for those spaces would be integral to the existing educational facility. This gives rise to a requirement for 2 no. additional spaces, one per teacher. There is an argument that the 11 no. spaces, 3 no. above the permitted development, meets the development plan standard for the two additional classrooms.

A complication arises however that there is a lack of clarity about the additional number of classrooms which the proposed development provides. The permission governing the permitted development did not limit the number of staff or classrooms.

It was based on an understanding that 4 no. classrooms were to be provided. I have no knowledge of how the Planning Authority came to that conclusion, but there is nothing on the history file to contradict it either.

The cover letter with the current application indicates that no additional classrooms are proposed, that the purpose of the extension is related to the comfort of staff and students as the '2 no. classrooms being created are currently in other locations'.

The applicant's position is thus that 6 classrooms have always operated.

### **9.0 Conclusions and Recommendation**

If one accepts the applicant's position set out above, then no contribution is payable as the development would not give rise to additional classrooms and there would be no change in the car parking demand.

Having regard to the planning history, which lacks clarity, to the number of rooms contained within the originally permitted educational facility (for which no specific purpose was assigned) and to the applicant's statement relating to the use of the premises for the provision of 6 no. classroom, I would be minded to favourably consider the appeal.

This is a finely balanced case in my opinion. Given the planning history and the lack of clarity over the permitted number of classrooms, I consider it appropriate to accept the applicant's position that there is no increase in classrooms arising from the current application.

I therefore recommend that the requirement set out under condition 5 to pay for a shortfall of parking be rejected.

I recommend an order as follows.

## **DECISION**

**The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 11 and directs the said Council under subsection (10) (b) of section 48 of the 2000 Act, to REMOVE condition number 5 and the reason therefor.**

## **REASONS AND CONSIDERATIONS**

**Having regard to the planning history relating to the permitted educational facility, particularly to the absence of details relating to the permitted number of classrooms and to the submission by the applicant that the proposed development will not involve an increase in classrooms the Board considered it reasonable to conclude that no additional demand for parking would result from the proposed development.**

**It is considered, therefore, that the terms of the Carlow County Council Development Contribution Scheme were not correctly interpreted and applied by the planning authority.**

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Mairead Kenny  
Senior Planning Inspector

16<sup>th</sup> September 2016