



An
Bord
Pleanála

Inspector's Report PL06F.246801.

Development

Change of use of part of rear ground floor living area to provide for 6 extra children giving a total of 16 children per session (2 daily sessions).
Playschool previously granted under F07A/0744.

Location

21 Riverwood Chase, Castleknock,
Dublin 15

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

FW16A/0051.

Applicant(s)

Judith Rogers.

Type of Application

Permission.

Planning Authority Decision

Grant permission.

Appellant(s)

Gabriel and Roisin Shanley.

Observers

None.

Date of Site Inspection

27th of September 2016.

Inspector

Karen Hamilton.

1.0 Site Location and Description

1.1. The site is located within an established residential estate in Castleknock, Dublin. It comprises of a semi-detached two storey dwelling with private off street parking and front and rear gardens. The site fronts onto the amenity space for the overall residential estate comprising tennis courts and children's play area/space. A preschool facility currently operates from part of the dwelling. The private amenity space to the rear comprises of a small grassed area, patio and garden shed. The rear site is enclosed by a 2m high timber fence. There are a series of parking bays along the edges of the internal estate road.

2.0 Proposed Development

2.1. The proposed development includes a change of use of part of the rear of the ground floor dining area (20m²) to provide for 6 extra children giving a total of 16 children per session (2 daily sessions) The playschool was initially granted under F06A/00992 and is operating on part of the current dwelling.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Decision to grant permission. The following conditions are of note:

- Condition 2: restriction of opening hrs from 08.45 to 12.15 and 13.00 to 16.15,
- Condition 3: operation by the resident of the dwelling and shall not be sold or let independently of the main dwelling
- Condition 4: retention of register of attendance,
- Condition 6: restriction of set-down parking and visitor parking and not permitted within the curtilage of the site.

3.2. Planning Authority Reports

3.2.1. The report of the area planner can be summarised as follows:

- The increase from 10 to 16 children is not excessive and would not have a significant effect on the residential amenity subject to conditions.
- There are no external changes proposed and the rear garden has direct access for the play area and therefore no design implications.
- The nature and scale is such that it should have no significant negative effect on any European sites.
- Grant subject to condition restricting number of children to 16.

3.3. Other Technical Reports

3.3.1. Roads Department report: No objection subject to a restriction to restrict set-down or visitor parking on the site.

3.3.2. Environmental Health Department: No objection subject to conditions.

3.3.3. Water Services Section: No objection.

3.3.4. Irish Water: No objection subject to standard notes.

3.4. Third Party Observations

3.4.1. One submission was received. The issues raised are covered in the grounds of appeal.

4.0 Planning History

4.1.1. FO6A/0992

Permission granted for extension to side and rear of house with part change of use of ground floor for 10 children.

4.1.2. PL06F.219883

Permission granted for playschool for 5 years, with a maximum of 10 children for session, must be solely operated by the person in residence of the dwelling and external alterations removing a front door.

4.1.3. F07A/0774

Permission was granted similar to previous FO6A/00992 except for uses of 2 sessional periods for 5 days a week and amendment for external front door for the playschool.

4.1.4. PL06F.225115

Permission was granted for a period of three years, restriction on the opening hrs, use of the site for 10 children, playschool operated by the person in residence of the dwelling and the erection of a childproof timber fence around the play area to the rear.

4.1.5. FW10A/0190

Permission granted for continuation of use or preschool and to amended condition 3 to allow 12 children, restriction on the hrs of use and a maximum of 10 children per session as the site could not accommodate additional children on the floor space requirement.

5.0 Policy Context

5.1.1. Childcare Facilities Guidelines for Planning Authorities (DOE,2001)

The guidelines provide appropriate guidance on the provision of childcare facilities in new and existing areas, where any application made within an existing dwelling shall be treated on their merits having regard to the principles outlined particularly in relation to parking/ drop off points, layout and design of the housing area and the effect on the amenities of the adjoining properties.

5.1.2. The relevant polices from **Fingal County Council Development Plan 2011-2017** are summarised below:

OS 38: Requirement for a minimum of 60 sq.m of private open space for 3 bedroom houses or less behind the building line to the front of the house.

CI11: Encourage the provision of childcare facilities in appropriate locations including residential areas and others close to public transport nodes.

CI12: Ensure appropriate premises are located with sufficient open space in accordance with Childcare (Pre-school) services Regulations 1996 (as amended).

CI14: Ensure that new childcare facilities are designed so as not to cause a nuisance by virtue of car-parking, traffic and noise generation to existing or future residents of an area.

CI15: Ensure childcare facilities have adequate bicycle, car parking and set down facilities.

Tables TO3b: Commercial Car parking standards (maximum): 1 space per 2 staff members (excluding set down).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are submitted by the occupants of the adjoining dwelling and can be summarised as follows.

- The playschool is operating contrary to previous permissions granted on the site and currently has 15 children per session rather than 10.
- The current facility is a cause of nuisance and disturbance and the extension will further exacerbate this by moving the facility closer to the appellants dwelling.
- The proposal does not comply with childcare guidelines namely Child-care (pre-school services) Regulations 1996/1997, Childcare Facilities-Guidelines for Planning Authorities and best practice guidance from the Department of Children and Youth Affairs.
- The proposed development does not accord with the policies of the development plan as there is no public transport, is an inappropriate location and does not form part of the original planning layout.
- The planners report does not adequately address the issue that there is no dividing wall in the rear open space as previously conditioned by An Bord Pleanála.
- The condition to restrict the set down area will cause additional cause for nuisance and disturbance on surrounding properties and the turning circle is currently overused by those using the playground and tennis courts.

6.2. Planning Authority Response

6.2.1. The Planning Authority response can be summarised as follows

- The EHO assessed the application and had no issues. Other environmental health issues are a matter for HSE and not planning.
- The area for expansion is not directly adjacent to the appellants dwelling.
- The proposal complies with the policies and objectives of the Fingal Development Plan 2011-2017.

6.3. Applicant response

- The school only operates during term time and an appendix with the dates has been submitted and hrs of operation are restricted as per planning permission F06A/0992.
- There are 5 toilets on site and no requirement for nappy changing as all children are toilet trained.
- The area of play to the rear of the site is 64 m² which allows for the minimum area under the current legislation.
- The site is well serviced by public transport a bus timetable has been submitted from Baggot Street to Blanchardstown and train timetable from Connolly to Coolmines. The majority of children walk as they are from the local area.

7.0 Assessment

7.1. The main issues in this appeal can be considered as follows:

- Residential amenity of property in the vicinity.
- Residential amenity of existing dwelling.
- Traffic and Parking.
- Appropriate Assessment.

Residential Amenity of property in the vicinity.

7.2. The childcare facility has been in operation since 2008 and is located within a large established residential area. Previous permissions included conditions restricting the length of permission, hrs of use and number of children attending the sessional care. The current permission does not have a restricted lifespan although the attendance of children was restricted to 10 per session based on the required floorspace from

the Childcare Facilities Guidelines. The additional floor space could accommodate an additional 8 children based on the floorspace requirement in the Childcare Guidelines of 2.32 m² per child aged between 2-6. Therefore, the principle of a playschool is acceptable. I believe the current facility operates well and upon site inspection did not appear to have a negative impact on the surrounding residential amenity.

- 7.3. The applicant has submitted proposals for additional insulation in cavity wall which I believe sufficient to mitigate against a negative impact and may be conditioned. The hours of use are such that they are limited to sessional care which are not outside the remit of normal disturbance in a residential area.
- 7.4. I am, therefore, satisfied that the proposed development would not have a detrimental impact on the adjoining residential amenity by virtue of noise or disturbance.

Residential Amenity of existing residential amenity

- 7.5. The proposed area for the playschool would total approximately 46 m². The floorspace for the main residence would be 137m² which remains a reasonable sized here bedroom dwelling. The normal living facilities would be retained.
- 7.6. The previous permission, (06F.225115) required the erection of a fence around the children's play area to the rear. I note from my site visit, however that the open space to the rear does not appear to be in use by the playschool and was not distinctly separate from the dwelling use as per plans submitted for FW10A/0190. It is now proposed to use the entire rear garden for use by the playschool. Although the plot does not facilitate both a dedicated outdoor area for the playschool and a separate rear garden for the dwelling, I consider it may operate effectively for both the main residence and the playschool.
- 7.7. I am satisfied, therefore, that the current dwelling can function independently as the dominant use on the site where the playschool remains subsidiary.

Traffic & Parking

- 7.8. It is noted that the applicant argues that the current off street parking be utilised for the playschool facility. The paved area to the front can accommodate at least two cars satisfactorily. There were no cars parked upon site inspection and from observation parents parked along the parking bays to the front and walked children over. It is acknowledged that the majority of parents will require only set down and drop off areas and the surrounding area can accommodate this.
- 7.9. The control of vehicular set down within the existing site was recommended by the grant of permission. I believe this is a reasonable condition to prevent a traffic hazard on site. Car parking for staff required under the development plan for 1 space per two staff members is a maximum. The report from the planning authority references a total of 3 employees. I acknowledge that policy CI15 requires childcare facilities to have adequate bicycle, car parking and set down areas and although these are not within the confines of the site there is substantial space in the immediate vicinity. I do not believe that an additional six children per session would cause any severe traffic hazard by way of parking.

Appropriate Assessment

- 7.10. Having regard to the nature and scale of the proposed development within an existing residential area and separation distance 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1.1. GRANT permission for the reasons and considerations as set out below.

8.2. Reasons and Considerations

Having regard to the planning history, existing playschool use on the site and the existing pattern of development in the area it is considered that, subject to compliance with the conditions set out below, the proposed change of use for a playschool would not constitute over-development of the site, and would not seriously injure the residential amenities and depreciate the value of adjoining properties by reason of noise, traffic movements or general disturbance. Therefore, the proposed development would be in accordance with the proper planning and sustainable development of the area.

9.0 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The part of the house used as a playschool shall not be separated from the main house and shall be operated by the resident of the dwelling. In particular, it shall not be sold or let independently of the main house and, when no longer required for use as a playschool, use of that part shall revert to use as part of the main house.

Reason: In the interest of residential amenity.

3. The proposed childcare facility shall not operate outside the period of 08.45 to 12.15 and 13.00 to 16.30 hours Monday to Friday inclusive except public holidays.

Reason: In the interest of residential amenity.

4. The number of children to be accommodated within the premises shall not exceed 16 per session. A register of attendance of the Childcare facility shall be maintained by the provider which shall be available for inspection at the request of the Planning Authority.

Reason: To limit the development in the interest of residential amenity.

5. No set-down parking or visitor parking shall be facilitated within the curtilage of the site. All parking within the curtilage shall be restricted to staff car parking and parking for the existing residential use only.

Reason: In the interest of traffic safety.

6. Prior to occupation of the playschool the applicant shall submit in writing to the planning authority confirmation on the installation of 12mm full sound proof board to the neighbouring adjoining wall.

Reason: In the interest of the residential amenity of the surrounding area.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. 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

Karen Hamilton
Planning Inspector

03rd of October 2016