
An Bord Pleanála



Inspector's Report

Ref.: PL04.247119

Development: Permission for retention of playground climbing frame to side of crèche & permission for construction of proposed roofing of playground climbing frame to side of crèche, new covered playground area to side of crèche and a new single storey extension to rear of crèche with related site works.

Chancery, 'Little Paradise Crèche', Ballycurreen, Frankfield, Douglas, Cork.

PLANNING APPLICATION

Planning Authority: Cork County Council

Planning Authority Ref.: 16/4649

Applicant: Tina Sherlock

Type of Application: Permission & Permission for Retention

Planning Authority Decision: Grant subject to conditions

APPEAL

Type of Appeal: Third Party v. Decision

Appellant(s): Stephen and Irene Newman & Others

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 5th December, 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located along the southern side of the Ballycurreen Road (R851 Regional Road) in the outer suburb of Douglas, approximately 3.0km south of Cork City Centre and c. 650m east of the N27 (Kinsale) National Road. The immediate site surrounds are characterised by a variety of housing development with a number of detached properties having been developed alongside Ballycurreen Road whilst the lands to the south and east are dominated by more conventional suburban two-storey housing. The site itself has a stated site area of 0.29 hectares, is rectangular in shape and consists of two distinct elements in that the forward (northern) section of same is occupied by the 'Little Paradise Crèche', which comprises a single storey building used as a childcare facility, whilst the remainder of the site to the rear of the existing construction comprises undeveloped scrubland. The existing crèche is accessed via a one-way access / egress arrangement off the Ballycurreen Road (which utilises 2 No. separate entrance / exit points) with car parking and a dedicated pick-up / drop-off area located to the front of the building. The facility also includes a children's outdoor play area situated to the east of the site which abuts the rear garden areas of the existing two-storey semi-detached houses in the adjacent Curraghwoods housing estate. In this respect it should be noted that the site topography slopes down from west to east / north-east and that there is a noticeable difference in ground levels between the application site and the adjacent housing to the east. The wider site area is bounded to the south and east by the Curraghwoods housing estate with the adjacent lands to the west occupied by a detached dwelling house whilst the Ballycurreen Road lies to the north. The perimeter site boundary is defined by blockwork walling with the construction along the southern and eastern boundaries rising to an approximate height of c. 2m and supplemented by mature planting to south and a line of recently planted trees along the eastern boundary.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the following:

- The retention of an existing playground climbing frame located to the side of the crèche building.
- The construction of roofing over the existing playground climbing frame located to the side of the crèche building.

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- The construction of a new covered playground area to the side of the existing crèche building which will include the erection of an open steel frame structure with roof panel sheeting.
 - The construction of a single storey extension to the rear of the existing crèche building (floor area: 199m²).
 - Associated site development works.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 108789. Was granted on 31st March, 2011 permitting Tina Sherlock permission for the change of use of existing dwelling to crèche/playschool including alterations to existing window and door openings with all associated site works.

PA Ref. No. 124363. Was granted on 30th November, 2012 permitting Tina Sherlock permission for retention of additional entrance, internal laneway, adjusted ground levels, internal boundary walls, fences, relocation of children's play area, reorientation of car parking area and associated site works.

PA Ref. No. 144897. Was refused on 25th June, 2014 refusing Mark Sherlock outline permission for the construction of a single storey dwelling, new vehicular entrance and associated site works.

PA Ref. No. 154906 / ABP Ref. No. PL04.245170. Was refused on appeal on 13th November, 2015 refusing Mark Sherlock permission for the construction of a single storey dwelling, vehicle access and all associated site development works for the following reason:

- It is considered that the proposed dwelling by reason of its size, scale and design, together with its proximity to boundaries to the east, would give rise to an overbearing appearance and would be visually obtrusive when viewed from adjoining properties. Furthermore, the scale of the proposed development would be cramped on this restricted site and would be incompatible with the character of the area. The proposed development would, therefore, seriously injure the visual and residential amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

ABP Ref. No. RL04.RL3417. Was determined on 19th February, 2016 wherein the Board held that the erection of a playground climbing frame and the erection of a Perspex roof over an existing play area in connection with a crèche premises at Little Paradise Crèche, Ballycurreen, Frankfield, Douglas, Co. Cork, was development which was not exempted development.

3.2 On Adjacent Sites:

PA Ref. No. 067762. Was granted on 31st August, 2006 permitting Marie Fitzgerald & Muiris MacPhaidin permission for extensions to dwelling house and widening of entrance at No. 31 Curragh Woods, Frankfield, Ballycurreen, Cork.

PA Ref. No. 126397. Was granted on 4th April, 2013 permitting Kevin & Patricia Coakley permission for the demolition of an existing dwelling house and construction of a new dwelling house and associated site works at Hillview, Ballycurreen, Frankfield, Cork.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

Following the receipt of a response to a request for further information, on 26th July, 2016 the Planning Authority issued a notification of a decision to grant permission & permission for retention of the proposed development subject to 14 No. conditions which can be summarised as follows:

- Condition No. 1 – Refers to the submitted plans and particulars.
- Condition No. 2 – Requires the proposed structure to be used solely for the purposes permitted and states that no change of use is to occur without the benefit of a grant of permission.
- Condition No. 3 – Prohibits the erection of any other structures within the 'dwelling curtilage', save with the benefit of a grant of permission.
- Condition No. 4 – Refers to external finishes.
- Condition No. 5 – Refers to finished floor levels.
- Condition No. 6 – Refers to boundary walls.
- Condition No. 7 – Refers to the provision and delineation of parking spaces on site.
- Condition No. 8 – Refers to noise levels and working hours during the construction phase in addition to the implementation of agreed noise and dust control measures.
- Condition No. 9 – Refers to waste management during the construction phase.

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- Condition No. 10 – Requires the public road etc. to be maintained in a clean and tidy condition during the course of the construction works.
- Condition No. 11 – Refers to the provision of adequate on site parking facilities during the construction phase.
- Condition No. 12 – Prohibits any vegetation or structure within the sight distance triangle from exceeding 1m in height.
- Condition No. 13 – Refers to connection to water and wastewater services.
- Condition No. 14 – Requires payment of a development contribution in the amount of €3,247.68.

4.2 Objections / Observations:

A total of 6 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Concerns with regard to the capacity of the existing foul sewer to accommodate the additional loadings consequent on the proposed development.
- The need to satisfactorily address the additional surface water runoff consequent on the proposed development.
- Overdevelopment of the application site / the overall scale of development on a restricted site.
- Increased traffic volumes and the associated parking requirements.
- The proposed development will have a detrimental impact on the residential amenity of adjacent properties by reason of increased traffic, noise, overlooking / loss of privacy, overshadowing and general disturbance.
- Concerns as regards the future use of the proposed crèche extension and its possible conversion into a separate dwelling unit.
- The proposal constitutes backland development.
- Devaluation of neighbouring property.
- The overall aesthetic appearance of the proposed climbing frame etc. is objectionable and will have a detrimental visual impact.
- The height of the shared boundary wall has been raised without the necessary consent.
- The proposed construction will have an overbearing impact on neighbouring properties.
- Conflicting information has been provided in previous planning applications as regards ownership of the proposed development site.

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- No details have been provided of any play equipment within the proposed covered area and there are concerns that the structure may be re-purposed for an alternative use.
 - Concerns with regard to the health and safety of patrons of the existing crèche during construction works.
 - Inadequate details have been provided of any proposed boundary landscaping.
 - The proposed development may undermine the structural stability of the boundary retaining wall with adjacent property.
 - The proposal is not in keeping with the surrounding pattern of development.

4.3 Internal Reports:

Area Engineer / Engineering: An initial report recommended that further information be sought in respect of the available sightlines, the total number of staff and children to be accommodated on site, the adequacy of the car parking facilities, and the stability of the boundary wall to the east of the application site.

Following the receipt of a response to a request for further information, a further report was prepared which stated that there was no objection to the proposed development subject to conditions.

4.4 Prescribed Bodies / Other Consultees:

Irish Water: No objection subject to conditions.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- Inadequate consideration has been given to the planning history of both the site and the applicants in addition to instances of non-compliance with the terms and conditions of previous grants of permission issued on site.
- There has been no consideration of the previous refusals of permission issued on site by both the Planning Authority and An Bord Pleanala, with particular reference to PA Ref. Nos. 15/04906 & 14/04897.
- No consideration has been given to the size of the proposed dwellings given the fact that the surrounding area is predominantly residential in nature.
- Previous refusals of permission have ruled out any backland development in the area.

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- Both the existing and proposed playground areas result in the overshadowing of adjacent residential properties.
 - The existing and proposed developments significantly infringe on the privacy of adjacent dwelling houses.
 - There are concerns with regard to the future use of the proposed crèche extension and its possible conversion into a private dwelling house. Further concerns arise as regards the possible creation of an additional permanent entrance in order to facilitate the construction works.
 - No consideration has been given to the previous refusals of permission on site which established that any backland development would result in a significant devaluation of adjoining properties.
 - There has been no consideration of the potential impact of the proposed development on the retaining wall located to the rear of No. 4 Curragh Woods.
 - No consent has been given as regards the raising of the boundary wall. Furthermore, the Board is advised that the applicant has already raised the height of parts of the boundary wall without the necessary consent and that this matter is presently the subject of dispute.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

None received.

6.2 Response of the Applicant:

None received.

7.0 RESPONSE TO SECTION 131 NOTIFICATION:

Cork Childcare Committee:

- The 'Little Paradise Crèche' is the only fully compliant TUSLA notified full day service childcare facility in Frankfield. It caters for children aged from 6 No. months to 13 No. years and is open 50 No. weeks of the year. The existing crèche provides a wrap-around service for parents offering full day care, part-time, sessional care, out of school and after-school with drop off and pick up service to the local national school.
- The existing service is in contract with the Department of Children and Youth Affairs to offer the Early Childhood Care and Education (ECCE) free pre-school scheme, three hours per day for 38 No. weeks of the year.

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- There are 2 No. other childcare services in the vicinity which offer ECCE childcare services only.
 - The Childcare Act, 1991 (Early Years Services) Regulations, 2016: Regulation 2016: Facilities for Rest and Play (2)(a) require the provision on the premises of *'a suitable, safe and secure outdoor space to which the pre-school children attending the service have access on a daily basis'*.

Although there is no specific space required for an outdoor area, it must be assessed according to the health, welfare and development of the child in that it must be 'fit for purpose' for the children attending. The outdoor environment should provide the opportunity for fresh air, physical exercise, experiences of nature and opportunities for challenging risk. Childcare staff must ensure that the outdoor curriculum has the opportunities and activities that the children have access to in the outdoor play area, for example, running, team games, gardening, climbing and nature walks.

The outdoor play area should provide children with opportunities for physical play and to enhance their gross motor development thereby giving them the habits of physical activity for long life health and vitality. They should also provide for challenge to facilitate the children's ability to learn about risk and their own capabilities within a safe limit.

All childcare services are required to document risk assessment in relation to hazards identified outdoors and to minimise same to a safe level. Safety measures includes a requirement that fixed or moveable outdoor play equipment is safe and properly maintained in accordance with the manufacturer's instructions.

- The subject proposal will enable the 'Little Paradise Crèche' to provide outdoor activities all year turning an otherwise under-used area into a functional and attractive outdoor area for children to enjoy the outdoor environment.
- The Department of Children and Youth Affairs introduced a second free pre-school year for children aged from 3 No. years to avail of the ECCE scheme, however, this placed enormous demand on childcare services to provide ECCE places throughout the county. The childcare services in the Frankfield and surrounding areas are already at full capacity and this has resulted in increased pressure being placed on existing services to provide additional childcare places.

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- The proposed development will result in the creation of additional childcare places thereby allowing parents to benefit from the ECCE scheme and to enjoy the outdoor area.

8.0 NATIONAL AND REGIONAL POLICY

8.1 The 'Childcare Facilities, Guidelines for Planning Authorities, 2001' provide a framework to guide both local authorities in preparing development plans and assessing applications for planning permission, and developers and childcare providers in formulating development proposals. They state that Planning Authorities should encourage the development of a broad range of childcare facilities, i.e. part-time, full daycare, after-school care, etc., including those based in residential areas, in employment areas and in areas close to where users of such facilities live. The Guidelines provide detailed guidance with regard to appropriate locations for the siting of childcare facilities such as in the vicinity of schools in addition to detailing the development control considerations of proposals for same.

9.0 DEVELOPMENT PLAN

Cork County Development Plan, 2014:-

Chapter 5: Social and Community:

Section 5.1: Social and Community Facilities:

SC 1-1: Social and Community Infrastructure Provision:

- a) Support the provision of social and community facilities which meet the current and future needs of the entire population.
- b) Secure lands for social and community facilities and encourage the provision of facilities suitable for intergenerational activities, which are accessible to all members of the community, through initiatives in partnership with community groups and sporting organisations.

Section 5.3: Childcare Facilities:

SC 3-1: Childcare Facilities:

Support and facilitate the sustainable provision of childcare facilities in appropriate locations and seek their provision concurrent with development, having regard to population targets for the area and

in accordance with the Guidelines on Childcare Facilities and the Childcare (PreSchool Services) Regulations 2006.

Section 5.3.3:

Childcare Facilities are acceptable in principle subject to normal planning considerations in all land use categories but must be developed in a sustainable manner and at an appropriate scale in the areas where they are needed.

Chapter 14: Zoning and Land Use:

ZU 3-1: Existing Built Up Areas:

Normally encourage through the Local Area Plans development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted.

Carrigaline Electoral Area Local Area Plan, 2011 (2nd Ed., Jan. 2015):-

Land Use Zoning:

The proposed development site is located in an area zoned as 'Existing Built-Up Area'.

Other Relevant Sections / Policies:

Section 1: *Introduction to the Carrigaline Electoral Area Local Area Plan*

Section 2: *Local Area Strategy*

Section 3: *Settlements and Other Locations: Main Settlements: Cork City - South Environs*

10.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout
- Impact on residential amenity
- Traffic and parking considerations
- Appropriate assessment
- Other issues

These are assessed as follows:

10.1 The Principle of the Proposed Development:

10.1.1 The proposed development site is located in an area zoned as 'Existing Built-Up Area' in the Carrigaline Electoral Area Local Area Plan, 2011 (2nd Ed., Jan. 2015) where it is the stated policy of the Planning Authority to '*Normally encourage through the Local Area Plan's development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted*'. In this respect it is of particular relevance to note that Section 5.3.3 of the Cork County Development Plan, 2014 specifically states that childcare facilities are considered to be acceptable in principle in all land use categories, subject to normal planning considerations. Accordingly, in view of the foregoing, and having regard to the nature and scale of the proposed development, in addition to the established use of the site as a childcare facility, in my opinion, the subject proposal represents a complementary and ancillary extension of said use and will make a positive contribution to the continuing development of the existing facility for the benefit of the wider community. Therefore, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

10.2 Overall Design and Layout:

10.2.1 With regard to the overall design and layout of the proposed crèche extension, in my opinion, it is clear that the new construction is generally in keeping with the existing building in terms of building height, finished floor level and external finishes etc. and that it has been set back a sufficient distance from the perimeter site boundaries whilst its positioning to the rear of the site serves to limit its visual impact on the wider area. In this regard it should also be noted that the proposed crèche extension does not give rise to 'backland' development as it simply forms an addition to the existing structure as distinct from those earlier development proposals previously refused permission on site which involved the construction of an entirely separate and self-contained dwelling house.

10.2.2 In relation to the existing climbing frame and the proposal to roof same, the overall design of this feature is typical of such structures and is generally acceptable. However, I would have some reservations as regards the proximity of this structure to the eastern site boundary and the potential impact of same on

the residential amenity of neighbouring properties which I propose to consider in further detail elsewhere in this report.

10.2.3 The remaining aspect of the overall development proposal involves the construction of a new covered playground area to the side of the existing crèche building which will entail the erection of an open steel frame structure with roof panel sheeting. This proposed structure will cover a floor area of 108m² and will extend to a ridge height of 3.024m with its side elevations rising 2.231m over ground level.

10.2.4 The overall design of the proposed covered playground area is relatively simple and uncomplicated whilst its siting to the side (and behind the building line) of the existing construction will serve to reduce its visibility in a wider context, however, given its the proximity to the eastern site boundary (with a separation distance of only 1.21m from the shared boundary wall) I would have some reservations that it may give rise to a somewhat overbearing impact on being viewed from within the rear garden area of those neighbouring residences in Curraghwoods.

10.3 Impact on Residential Amenity:

10.3.1 Concerns have been raised in the grounds of appeal that the proposed development will have a detrimental impact on the residential amenity of neighbouring properties primarily by reason of overlooking with an associated loss of privacy and overshadowing.

10.3.2 With regard to the foregoing, I am inclined to suggest at the outset that the overall design of the proposed extension to the existing crèche building has taken sufficient cognisance of the need to preserve the amenities of adjacent property given its single storey construction and the separation distance between it and the perimeter site boundaries. Accordingly, I am satisfied that this aspect of the overall development proposal will not give rise to any significant impact on the residential amenity of adjacent property by reason of overlooking or overshadowing.

10.3.3 In relation to the proposed covered play area, whilst I would concede that the proximity of same to the shared site boundary with existing housing in Curraghwoods has given rise to concerns in terms of the potential for overshadowing of rear garden areas, it is of relevance to note that the finished ground level of this construction will be approximately 500mm-800mm below the existing ground level on site. Accordingly, on the basis of the foregoing, and

noting that the existing boundary wall is c. 2m in height, it can be determined that the rising walls of the proposed covered area are unlikely to exceed the height of the existing boundary wall and thus this aspect of the proposed development will not give rise to any significant impact in terms of the overshadowing of adjacent properties.

10.3.4 In respect of the existing climbing frame which is proposed for retention, having conducted a site inspection, it is my opinion that the proximity of same to the site boundary with adjacent private residences, when combined with the overall nature of its construction (which includes an elevated platform or play activities), in addition to the notable difference in ground levels between the application site and those lands to the immediate east, is likely to intrude to an unacceptable extent by reason of overlooking / disturbance on the levels of amenity and privacy which could reasonably be expected to be enjoyed in the rear gardens of the neighbouring dwelling houses. Therefore, I would recommend that this aspect of the proposal be omitted from the overall development and permission refused for same accordingly.

10.4 Traffic and Parking Considerations:

10.4.1 The existing access / egress arrangements serving the application site were previously approved under PA Ref. No. 124363 and in this respect I am satisfied that the continued use of same will adequately accommodate the additional traffic volumes / movements consequent on the proposed development.

10.4.2 In relation to the increased parking requirements likely to be generated by the proposed development, I would advise the Board that '*Table 1a: Car Parking Requirements for New Development (Maximum per sq.m)*', as set out in '*Appendix D: Parking and Cycling Standards*' of the Cork County Development Plan, 2014, indicates that within the Cork City South Environs on site car parking for crèche facilities should be provided at a rate of 1 No. space per 3 No. staff in addition to 1 No. space per 10 No. children. In this regard I would also refer the Board to the response to the request for further information received by the Planning Authority on 11th July, 2016 wherein the applicant indicated that the existing and proposed developments will employ a total of 10 No. staff and will cater for 95 No. child places and that this will equate to a car parking requirement of 13 No. spaces which is already available on site.

10.4.3 Having reviewed the available information, and following a site inspection, it is my opinion that the existing car parking facilities available on site accord with

the requirements of the Development Plan and thus will be sufficient to accommodate the increased demands associated with the proposed development.

10.5 Appropriate Assessment:

10.5.1 From a review of the available mapping, and the data maps from the website of the National Parks and Wildlife Service, it is apparent that the proposed development site is located outside of any Natura 2000 site with the closest examples of any such designation being the Cork Harbour Special Protection Area (Site Code: 004030) approximately 2.85km to the northeast. In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Objective No. HE 2-1: '*Sites Designated for Nature Conservation*' of Chapter 13 of the Cork County Development Plan, 2014, to protect all natural heritage sites, both designated or proposed for designation, in accordance with National and European legislation. In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, the designated site should be accompanied by such sufficient information as to show how the proposal will impact on the designated site. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

10.5.2 Having reviewed the available information, including the screening exercise undertaken by the Planning Authority as appended to the initial Planner's Report prepared in respect of the subject proposal, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the site location outside of any Natura 2000 designation, the limited ecological value of the lands in question, the absence of any direct discharge to a watercourse, the availability of public services, and the separation distances involved between the site and the Cork Harbour Special Protection Area, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of the aforementioned Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of the foregoing Natura 2000 site and would not undermine or conflict with the Conservation Objectives applicable to same.

10.5.3 Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site and, in particular, specific Site Code: 004030, in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

10.6 Other Issues:

10.6.1 Infrastructure / Servicing Issues:

10.6.1.1 Whilst concerns were raised during the course of the Planning Authority's assessment of the subject application as regards the capacity of the existing foul sewer network to accommodate the additional loadings consequent on the proposed development, I would advise the Board that the report of the Area Engineer has raised no concerns in this regard whilst Irish Water has similarly indicated no objection to the intended servicing of the proposed development.

10.6.1.2 With regard to the collection and disposal of surface water runoff generated on site, I would suggest that such matters can be satisfactorily addressed by way of an appropriate condition in the event of a grant of permission.

10.6.2 Planning History / Previous Instances of Non-Compliance / Unauthorised Development:

10.6.2.1 In relation to the appellants' concerns as regards the applicant's planning history and alleged instances of unauthorised development, it should be noted that the Board has no function in respect of issues pertaining to enforcement and that the pursuit of such matters is generally the responsibility of the Planning Authority.

10.6.3: Boundary Walling:

10.6.3.1 With regard to the concerns raised in respect of the impact of the proposed development on the structural stability of the existing boundary wall (which includes a retaining wall construction) with Curraghwoods, it should be noted the applicant has submitted an Engineer's Report prepared by Abode Engineering (in response to a request for further information) which has concluded (on the basis of a visual inspection only) that there are no indications of any significant damage, settlement or rotational movement and thus the structural integrity of the wall in question would appear to be sound. Accordingly,

in view of the foregoing, and in the absence of any clear evidence to the contrary, I do not propose to comment further on this matter.

10.6.3.2 In relation to the assertion that the shared boundary wall has been raised in places without the consent of the affected parties, I would advise that it is not the function of the Board to adjudicate on matters pertaining to boundary disputes. Accordingly, any alleged encroachment or interference with the appellant's property is essentially a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

10.6.4 Potential Future Usage:

10.6.4.1 Whilst I would acknowledge the concerns raised in the grounds of appeal as regards the possible future use of the proposed development for an alternative use (i.e. as a dwelling house / residential accommodation), the subject proposal specifically relates to the extension of an existing childcare facility and any subsequent change of use to a dwelling house would necessitate the lodgement of a further planning application at which time third party interests would be permitted to make submissions as regards same.

11.0 RECOMMENDATION

Having regard to the foregoing I recommend that a split decision be issued in respect of the proposed development as follows:

GRANT permission for the new covered playground area to side of crèche and a new single storey extension to rear of crèche with related site works in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

Reasons and Considerations (1):

Having regard to the pattern of development in the area and the established childcare use on the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, 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 and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 11th day of July 2016, 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. 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.

3. Both the proposed extension and the existing crèche building shall operate as a single crèche use and the proposed extension shall not be sold or leased as a separate crèche or residence.

Reason: In the interest of the amenities of this residential area.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

5. Site development and building works shall be carried out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

6. 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.

REFUSE permission for the retention of playground climbing frame to side of crèche & permission for construction of proposed roofing of playground climbing frame to side of crèche based on the reasons and considerations marked (2) under.

Reasons and Considerations (2):

1. Having regard to the pattern of development in the area, it is considered that the playground climbing frame proposed for retention, by reason of its design, height and proximity to the site boundary, would seriously injure the residential amenities and depreciate the value of adjoining properties by reason of visual obtrusion and overlooking. The proposed development

would, therefore, be contrary to the proper planning and sustainable development of the area.

Signed: _____

Robert Speer
Inspectorate

Date: _____