



An  
Bord  
Pleanála

## Inspector's Report PL.06D.248137

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<b>Development</b>	Permission for the demolition of a garage, construction of a two storey extension and change of use of part of the ground floor from residential to a Montessori pre-school.
<b>Location</b>	'Camberley House', 78 Churchtown Road Upper, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire - Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D16A/0926.
<b>Applicants</b>	Anne Marie & Shane Keown.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party v. Decision.
<b>Appellants</b>	Anne Marie & Shane Keown
<b>Observers</b>	<ol style="list-style-type: none"><li>1. Camberley Elms Residents Association.</li><li>2. Camberley Oaks Residents Association.</li></ol>

**Date of Site Inspection**

16<sup>th</sup> May 2017

**Inspector**

Dáire Mc Devitt

## **1.0 Site Location and Description**

- 1.1. The appeal site is located along the southern side of Churchtown Road Upper, a mature suburb of Dublin. There is a mixture of residential, commercial and educational uses in the vicinity of the site. There is limited on-street parking with pay & display public car parks located within c.65m of the site. There is clamping in operation along Camberley Elms, the adjoining residential cul-de-sac. The majority of Churchtown Road Upper has double yellow line road markings with the exception of the small section to the front of the site.
- 1.2. Camberley House is a two storey detached house on a corner site. It is bounded to the south by Camberley Elms terrace, to the west by No. 76A Churchtown Road Upper and to the east by the entrance to Camberley Elms. The house extends to and forms the northern boundary along Churchtown Road Upper where there is a footpath, grass verge and trees along the road. On the opposite side of the road is a Kia Dealership and an access lane to a neighbourhood centre carpark.
- 1.3. The domestic garage associated with Camberley House is accessed off Churchtown Road Upper. There is no driveway associated with the house.
- 1.4. Maps, photographs and aerial images are in the file pouch.

## **2.0 Proposed Development**

Permission is being sought for:

- Demolition of c.30.6 sq.m domestic garage.
- Construction of a two storey extension (c.82.6 sq.m) with a Montessori at ground floor and an extension to the residential use at first floor.
- Change of use of part of the existing house to Montessori pre-school at ground floor.
- Proposal would cater for 22 children with 2 staff (1 of which is the applicant) in 1 morning Session (9am to 12.30pm).

The existing house has a gfa of 249.2 sq.m, the proposed new gfa would be c.301.2 sq.m with c. 51.5 sq.m of this is proposed to be used as a Montessori.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was refused for 4 reasons relating to 1) lack of adequate off-street parking, 2) non-compliance with Section 8.2.12.1 of the Development Plan in terms of site suitability, safe access, parking and designated drop off/collection area, 3) traffic hazard due to the impact the lack of parking would have on illegal parking and road users and 4) the height, length and location of the first floor extension was considered to be visually obtrusive and would have a negative impact on the amenities of adjoining residents, in particular those to the west who share the common boundary.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Report (7<sup>th</sup> February 2017)**

This Report formed the basis for the Planning Authority's decision and the main points are reflected in the reasons for refusal.

##### **3.2.2. Other Technical Reports**

**Transportation Planning (3<sup>rd</sup> February 2017).** Recommendation to refuse permission for reasons relating to inappropriate parking, lack of setdown/collection area, and that the proposal would constitute a traffic hazard and an obstruction to road users.

**Drainage Section (25<sup>th</sup> January 2017).** Insufficient details regarding foul and surface water.

#### **3.3. Third Party Observations**

Numerous Submissions in favour and against were received by the Planning Authority. Those against are generally in line with the Observations received on

this appeal and shall be dealt with in more detail in the relevant section of this Report. The main issues are summarised as follows:

- The proposed set down area along a public road is outside the applicant's control and, therefore, members of the public cannot be prevented from parking there.
- The proposal would constitute a traffic hazard due to illegal parking and proximity of the site to 6 junctions along a very busy road.
- There is no parking on site for the occupants of the house, let alone staff and customers.
- Overlooking of adjoining properties.
- The proposal does not comply with the Departments Guidelines for Childcare facilities.
- The previous reasons for refusal of permission have not been addressed.

The submissions in favour are summarised as follows:

- Need for facilities in the area.
- Site is suited for the proposed use.
- The owner of the Kia garage has submitted a letter outlining that if permission is granted they will no longer park cars along the section of Churchtown Road Upper in front of Camberley House in order to leave this free for use as a set down/collection area by the applicant.

## 4.0 Planning History

**Planning Authority Reference No. 16A/0245.** Permission refused for a similar development in 2016 for reasons relating to traffic hazard due to inappropriate car parking which would create obstructions for road users, the proposal did not comply with section 8.2.12.1 for childcare facilities and that the height, length and location of the extension would be visually overbearing and obtrusive.

## 5.0 Policy Context

### 5.1. Dun Laoghaire- Rathdown County Development Plan 2016-2022.

**Land Use Zoning Objective 'A'** *To protect and/or improve residential amenity.*

**Section 8.2.12.1** refers to the criteria for childcare facilities including applications in established residential areas which should be treated on their own merits having regard to the likely effect on the amenities of adjoining properties and should be subordinate to the main residential use. In addition, the criteria for childcare facilities including suitability of site, adequate play areas, carparking, suitable drop off areas, traffic considerations apply.

**Section 8.2.4.11** Childcare Facilities Parking/Access refers to the requirement for pedestrian routes to the facilities to be Part M complaint. For new facilities the availability of existing on-street parking spaces and any part time hours of operation will be considered as part of the application.

**Table 8.2.4 Set out the Maximum Car Parking Standards.** Childcare facilities require 1 space per staff member (including setdown).

**Section 8.2.3.4 (i)** refers to Extensions to Dwellings. Such proposals shall be considered in relation to a range of criteria including having regard to length, height, proximity to boundaries and quantum of usable rear private open space remaining. The design, dimensions and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations.

**Section 8.2.8.4 (ii)** refers to standards for minimum separation distances between first floor opposing windows and garden depths.

### 5.2 Childcare Facilities. Guidelines for Planning Authorities.2001 (DoE).

Section 3.3.1 refers to proposals for sessional services within existing residential areas and the requirement that these be subsidiary to the main residential use and subject to suitable off-street parking and/or suitable drop-off

and collection points for customers. Premises along primary traffic routes close to public transport are encouraged which can provide safe pull in/parking areas for customers.

### **5.3 Natural Heritage Designations**

None applicable.

## **6.0 Appeal**

### **6.1 Grounds of Appeal**

The First Party appeal seeks to address the reasons for refusal and is summarised as follows:

#### **Traffic & Car parking:**

- There are a number of carparks within walking distance of the site and a drop off point is proposed along Churchtown Road Upper in front of Camberley House where there is on street parking.
- The applicant has discussed the issue of parking with the owner of the Kia garage and they have reached an agreement that the garage will not use the section of the public road outside Camberley House.
- An application has been made to the Council by an adjoining Resident's Association for double yellow line marking in front of Camberley House.
- If permission is granted the applicant intends to apply to the Council for a set down area to be formally marked out.

### **Compliance with Development Plan Childcare requirements:**

- Rooms sizes comply with the Departmental Guidelines.
- The back garden would be available as a play area for the Montessori during hours of operation.

### **Impact of First Floor Extension:**

- The neighbours to the west did not lodge an objection to the proposal.
- The gable would not appear visually obtrusive to passers-by from the public road.
- Overlooking is not an issue. One window would have opaque glass the other is a narrow high level window which does not lend itself to overlooking.

Included in the appeal are letters of support from local residents, adjoining business and a Local TD.

#### **6.1. Planning Authority Response**

The Board is directed to the original Planner's Report as it is considered that the grounds of appeal do not raise any new matters which would justify a change in attitude to the proposed development.

#### **6.2. Observations**

Observations have been received from Camberley Elms Residents Association and Camberley Oaks Residents Association and are summarised as follows:

- The Application has not addressed the previous reasons for refusal.
- The applicant has not clearly demonstrated that there is a demand for the facility at this location.



- Proposal does not comply with Section 8.2.12.1 childcare facilities of the Development Plan.
- The development would result in a serious traffic hazard due to inadequate parking and set down proposals and no provision for cars turning at the end of Camberley Elms cul-de-sac.
- Proposal would set an undesirable precedent for similar development without the required car parking.
- Proposed extension is overbearing, visually obtrusive and would provide enhanced overlooking opportunities.
- Insufficient drainage information submitted.

## **7.0 Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of the Development.
- Traffic
- Design & Residential Amenity
- Appropriate Assessment.

### **7.1. Principle of Development**

7.1.1 The application includes permission for the partial change of use of Camberley House from residential to a Montessori pre-school to cater for 22 children and 2 staff in one morning session (9:30am to 12:30pm).

- 7.1.2 Under Land Use Zoning Objective “A”, to *protect and/or improve residential amenity*, a childcare facility is ‘open for consideration’.
- 7.1.3 The Development Plan sets out that uses which are ‘open for consideration’ are those which may be permitted where the Planning Authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area. The Churchtown Road Upper area has a mixture of residential, commercial and educational land use zonings and I am satisfied that the proposed development is acceptable in principle subject to compliance with the adopted policies, objectives and site specific planning considerations.

## **7.2 Traffic**

- 7.2.1 Section 8.2.12.1 of the Development Plan refers to the general criteria which applies to the assessment of new childcare facilities having regard to the Departments Childcare Guidelines. Section 8.2.4.11 refers to parking and access for childcare facilities and highlights that where proposals are in existing residential areas the availability of on-street parking and part time hours of operation will be considered as part of the application.
- 7.2.2 The Childcare Guidelines in general advocate sessional childcare facilities in existing residential areas subject to the proposal being subordinate to the main residential use, appropriate and convenient off-street parking and/or suitable collection/drop off points. Proposals located along primary traffic routes close to public transport should be encouraged where they can provide safe pull in/parking areas for customers.
- 7.2.3 The Planning Authority’s decision to refuse permission includes three overlapping reasons relating to traffic safety.
- 7.2.4 The Planning Authority’s first reason for refusal refers to the lack of off-street parking which would lead to inappropriate/illegal parking on roads and

laneways in the area which would endanger public safety by reason of a traffic hazard or obstruction of road users.

7.2.5 The Observers also raised concerns relating to car parking in the area as there are issues with illegal parking creating obstructions for road users and local residents, a situation which would be exacerbated by the proposed development.

7.2.6 Section 8.2.4 of the Development Plan refers to the maximum car parking requirement required for a Childcare facility as 1 space per staff member including set down. The proposal would have 2 staff members, the applicant and an additional member of staff.

7.2.7 Camberley House has no onsite parking and does not propose to provide any as part of this application. The applicants have set out in the grounds of appeal that there is ample parking within the general area and that the section of the road outside Camberley House is used by the Kia Garage for parking cars. I note that this area is one of the few sections of Churchtown Road Upper where there are no double yellow line road markings and is used by members of the public to park. The appeal documentation includes a letter from the owner of this garage outlining that they will no longer park cars here if permission is forthcoming. I am of the view that this letter has no relevance to the application as the area in question is a public road and not under the control of the applicant or the owner of the Kia garage, therefore restrictions on the use of this section by members of the public is beyond the remit of this application.

7.2.8 Reference has also been made in the grounds of appeal to the use of adjoining residential roads and nearby carparks to accommodate customers dropping off children. At the time of inspection, I noted two pay & display car parks within

the immediate vicinity of the site which could accommodate parking for customers and staff if required.

- 7.2.8 Given the small scale of the proposed development, the location of the site along Churchtown Road Upper which is served by good public transport links, the presence of on street parking, the proximity of adjoining public car parks, and its highly accessible location in terms of walking and cycling distance from a sizeable residential catchment, I would consider, that the requirement to provide onsite parking and a set down/collection area is overly onerous.
- 7.2.9 Having regard to the availability of on street and off street parking in the vicinity to accommodate car based customers, I am satisfied that the proposed development would not result in an obstruction to road users and is acceptable in the context of traffic safety and convenience. I, therefore, consider that the appeal in relation to the planning authority's first reason for refusal should be upheld.
- 7.2.10 The second reason for refusal refers to the non-compliance with Section 8.2.12.1 of the Development Plan in relation to site suitability, safe access, carparking and drop off/collection points.
- 7.2.11 In terms of site suitability, it is my considered opinion that Camberley House, a detached house on a corner site, lends itself to the proposed partial change of use to a Montessori (morning only session) which is subordinate to the main residential use. The location of the proposal is appropriate on the basis that it is located where there is a large residential catchment within walking distance of the appeal site and the development would not be solely dependent on vehicular traffic.

7.2.12 Section 7.2.8 above has addressed the issue of safe drop off/collection areas and parking and I am satisfied that in this regard the proposal complies with Section 8.2.12.1 of the Development Plan. I therefore, consider that the appeal in relation to the Planning Authority's Second reason for refusal should be upheld.

7.2.13 Montessori and Childcare facilities are open for consideration on lands zoned under land use objective 'A'. I am satisfied that the issue of precedent does not warrant its own reason for refusal as each planning application is assessed in its own merits having regard to the requirements set out in the Development Plan and National Guidelines. I, therefore, consider that the Planning Authority's third reason for refusal should be set aside.

### **7.3 Design & Residential Amenity**

7.3.1 The fourth reason for refusal is on the basis that the proposed two storey extension, due to its excessive length, height and location along the common boundary would be visually obtrusive and overbearing when viewed from the neighbouring property to the west.

7.3.2 The existing single storey projection which includes the garage forms the northern boundary along Churchtown Road Upper and is set forward of the established building line to the west. This single storey section will remain with a two storey section proposed to the rear (south) of same.

7.3.3 The proposed extension would extend c. 4.5m along this boundary with a height ranging from 5.6 to 6.3m. The height of the existing boundary and planting in place between the properties has resulted in a degree of overshadowing. The increase in height to accommodate a first floor extension would not encroach on the residential amenities of adjoining properties. The proposal would not materially increase overshadowing from that currently experienced on site. A letter is included with the appeal from the owners of No. 76A, adjoining house to the west, outlining that they have no objection to the proposal.

7.3.4 Notwithstanding that the site is prominent due to its location along Churchtown Road Upper, it is my considered opinion that the proposed development in terms of design, scale, height and length, while visible, would not result in a visually obtrusive, overbearing feature and would not detract from the streetscape which has a variety of residential and commercial developments.

7.3.5 Overlooking has also been raised by the observers as a concern. The first floor windows along the southern elevation are set back c. 9.5m from the boundary with the adjoining house in Camberley Elms facing onto the rear garden of these houses. The first floor windows proposed along this elevation comprise one with opaque glazing and another at a high level. I am satisfied, therefore, that no undue overlooking would arise.

7.3.6 I consider, therefore, that the appeal in relation to the Planning Authority's fourth reason for refusal should be upheld.

#### **7.4 Appropriate Assessment**

7.4.1 Having regard to the nature of the proposed development and the location of the site in a fully serviced built up urban area, 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.

### **8.0 Recommendation**

I recommend that permission should be granted subject for the reason and consideration set out hereunder.

### **9.0 Reasons and Considerations**

Having regard to the provisions of the Dun 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 within walking and cycling distance of a significant residential catchment area, it is considered that subject to compliance with the following conditions, the proposed development would not constitute a traffic hazard or seriously injure the residential amenities of the

area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 to the Planning Authority, 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. The external finishes of the proposed extension including roof tiles/slates shall be the same as those of the existing dwelling in respect of colour and texture.

**Reason:** In the interest of visual amenity.

3. No more than 22 children shall be accommodated at any one time in the childcare facility and the hours of operation shall be limited to between 0930 hours and 1230 hours from Monday to Friday only.

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

4. The Montessori preschool shall be operated by a person in residence in the existing dwelling. The Montessori preschool shall not be sold or let independently of the main dwelling and, when no longer required for uses as Montessori it shall revert to residential use as part of the main dwelling.

**Reason:** In the interest of orderly development and residential amenity.

5. The use of the outdoor play area shall not commence before 10:00 hours.

**Reason:** In the interests of orderly development and visual amenity.

6. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs (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 building 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.

7. Water supply and drainage arrangements, including the attenuation and 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 site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours 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 adjoining residential occupiers.

9. 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.

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Dáire McDevitt  
Planning Inspector

12<sup>th</sup> June 2017