



An
Bord
Pleanála

Inspector's Report PL29N.248399

Development	Demolition of rear outbuilding and construction of a single-storey childcare facility providing pre-school and after-school sessional services
Location	3 Kinvara Road, Navan Road, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3932/16
Applicant(s)	Leanna Geoghegan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Doreen McKay
Observer(s)	None
Date of Site Inspection	19 th July 2017
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on Kinvara Road, a residential street accessed off the Navan Road (R147), close to a local neighbourhood centre on Kinvara Park and approximately 4.5km northwest of Dublin city centre.
- 1.2. The appeal site contains an end-of-terrace, two-storey dwelling containing three bedrooms and comprising a front porch extension and a single-storey flat-roof side extension. The external finishes to the subject dwelling include rendered walls and roof finished with flat-concrete tiles. To the front of the house there is a small garden and hardstanding area with space to accommodate two parked cars. The rear garden accommodates a single-storey outbuilding with access off a laneway which runs along the rear and side boundaries. This laneway is gated and the public right of way over this laneway has recently been extinguished by Dublin City Council.
- 1.3. The surrounding area is generally characterised by staggered rows of terraced dwellings, fronting onto residential streets and backing onto laneways. Ground levels in the vicinity are relatively level with only a slight drop moving southeast.

2.0 Proposed Development

The proposed development comprises the following:

- Demolition of a single-storey outbuilding to the rear of the site;
- Subdivision of the site with an internal fence;
- Construction of a single-storey childcare building in the rear garden to accommodate a maximum of 20 no. children in pre-school and after-school session services (08:30am to 18:00 Monday to Friday) with an external play area;
- Replacement of the side boundary wall to the laneway with new 2m-high boundary wall to include pedestrian access gate to the childcare facility;
- Installation of low-level electronic gates to the front boundary of the site, revised layout to front of dwelling and fingerpost sign at the front boundary.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant permission subject to 12 no. conditions, the following of which are of note:

- **C.3** Access to the childcare facility shall be through the existing house only;
- **C.4** The premises shall only be used as a Montessori / Pre-School / Sessional services;
- **C.5** Finger-post sign in the front garden and pedestrian gate from the rear garden onto the laneway shall be omitted;
- **C.6** Facility shall not be separated from the principal dwelling by lease or sale;
- **C.7** No more than 20 children shall be accommodated at any one time and the hours of operation shall be limited to between 09.00 hours and 18.00 hours, Monday to Friday.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer reflects the decision of the planning authority. The Planning Officer noted the following when requesting further information regarding the proposed development:

- Concerns regarding the impact on residential amenities and information required regarding the number, timing and type of sessions per day;
- There are serious concerns regarding the subdivision of the site;
- Proposed access to the site from the existing gated laneway is problematic, as the right of way over the laneway is extinguished;
- It is considered that the impact of the new building on adjoining properties would be modest and sufficient open space would be provided for the dwelling and childcare facility;
- Fingerpost sign should be omitted.

After receipt of the further information response from the Applicant, which was included a support letter from a local resident, the Planning Officer noted the following:

- Three potential access options were presented, one through the house and two using the laneway, with the former option only acceptable to the Planning Officer;
- Two sessions to be provided per day, including a morning session (09.30 to 12.30) and an afterschool session (13.30 to 17.30).

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - **no objection** subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third-Party Submissions

3.4.1. A total of ten third-party submissions were received by the planning authority, with some of the matters raised included in the grounds of appeal and the following additional matters raised:

- Proposals would set precedent for splitting 'Z1-zoned' sites into separate residential and commercial uses;
- Concerns regarding the lack of on-site parking arrangements and safe access and the additional traffic journeys expected;
- Laneway is no longer a public right of way and is a shared right of way for properties backing onto this including commercial units along Kinvara Park;
- Restricted access is only available to the laneway;
- Surface and wastewater drainage capacity;
- Fingerpost signage not appropriate for a residential area;

- Excessive height of the proposed building, with potential for loss of light to neighbouring gardens;
- Inaccurate development description;
- Proposals will result in devaluation of neighbouring property;

3.4.2. Two submissions were made in support of the development, as it will provide additional pre-school places within walking distance in an area where increasing demand exists.

4.0 Planning History

4.1. Subject Site

None.

4.2. Surrounding Sites

Applications for development in the immediate vicinity generally relate to domestic extensions and alterations to business premises on Kinvara Park.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022 with a stated objective "to protect, provide and improve residential amenities".
- 5.1.2. Policy regarding childcare facilities is set out in Chapter 12 of the Development Plan, titled 'Sustainable Communities and Neighbourhoods' and in Appendix 13 (Section 16.18) of the Plan which provides 'Guidelines for Childcare Facilities'.
- **Policy SN17:** To facilitate the provision in suitable locations of sustainable, fit-for-purpose childcare facilities in residential, employment, and educational settings, taking into account the existing provision of childcare facilities and emerging demographic trends in an area.

5.1.3. Appendix 13 states that proposals should have regard to the Dublin City Childcare Committee and its identification of areas that are under-provided or over-provided in terms of childcare provision. The following requirements apply:

- In existing residential areas, detached houses/sites or substantial semi-detached properties with space for off-street parking and/or suitable drop-off and collection points for customers and also space for an outdoor play area will generally be permitted, provided the premises remains primarily residential and traffic and access arrangements do not interfere with general residential amenity.
- Primary traffic routes where there are suitable and safe pull-in areas to the front for dropping off children by car are more suitable than tight residential cul-de-sacs.
- In relation to sessional and after-school care, the provision of such facilities may be considered in any residential area, as ancillary to the main residential use subject to parking/drop-off points, layout and design of the housing area and effect on the amenities of adjoining properties.

5.2. National Policy

5.2.1. The 'Childcare Facilities – Guidelines for Planning Authorities' (June 2001) provide the relevant national policy reference, for development such as that proposed. The Guidelines advocate a more pro-active role by Planning Authorities in the promotion of increased childcare provision, whilst protecting amenities.

- new facilities should not create a nuisance for residents locally;
- irrespective of location, the following criteria require attention when assessing proposals for childcare facilities: Child Care (Pre-School Services) Regulations 1996¹, type and size of facility, outdoor play areas and management of same, access and convenient parking, set down / pick up areas, local traffic conditions, neighbouring facilities, and hours of operation;

¹ These Regulations were revoked upon commencement of the Child Care (Pre-School Services) Regulations 2006.

- Sessional childcare facilities are acceptable in residential areas, where they are ancillary to the main residential use;
- Possible conditions requiring the maintenance of the residential content of a site can be considered and/or temporary permissions in exceptional circumstances;
- Access for the disabled and elderly should be encouraged and facilitated.

5.2.2. Departmental Circular PL03/2016 (March 2016) refers to the Government's policy towards increasing access to childcare and consideration of the need to review the 'Childcare Guidelines'. This Circular also addresses: -

- The need to expedite pre-planning consultation, planning applications and Section 5 declarations relating to childcare facilities;
- The Child Care (Pre-School Services) Regulations 2006 set out standards for operation of childcare facilities and Tusla is responsible for ensuring compliance with these Regulations;
- Planning authorities should exclude matters relating to internal standards, as outlined in Appendix 1 of the 'Childcare Guidelines', when assessing childcare facility proposals.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant resides in the adjoining property to the north, No. 5 Kinvara Road, and their principal grounds of appeal to the proposed development can be summarised as follows:

- Subject site would not be large enough to accommodate the proposed development and will result in overdevelopment of the site;
- There would be a lack of parking and suitable drop-off;
- Parking and traffic congestion on the subject and surrounding streets would arise, with a bollard restricting parking fronting the subject site (supported by photographs);

- Size and scale of the building would be imposing, would block light and would be out of keeping with surrounding sites;
- Undue noise impact would arise from the external play area.

6.2. Applicant's Response

The applicant responded to the grounds of appeal, as follows:

- The area is underprovided with regards to childcare services and support letter from local resident included;
- Roads & Planning Division of the planning authority did not object to the proposals;
- Off-street parking is available in the front curtilage for two cars;
- Only two sessions are proposed in the facility and not three as referenced by the appellant;
- After-school attendees will walk with an operator less than 650m from local national schools to the facility;
- Parking for the shops at Kinvara Park is not relevant;
- Applicant was not involved in installing bollard fronting the appeal site.

6.3. Planning Authority Response

The planning authority responded by stating that they consider the Planner Officer's Report on the file to comprehensively address issues raised and they request the Board uphold their recommendation to grant permission.

6.4. Observations

None.

7.0 Assessment

7.1. Introduction

7.1.1. The following assessment encapsulates my de novo consideration of the application. Departmental Circular PL03/2016 outlines that the internal standards of childcare facilities are not a relevant planning consideration, therefore, the relevant planning issues in this appeal relate to:

- Principle of the Development;
- Size, Scale & Nature of the Proposed Development;
- Traffic & Parking;
- Impact on Local Amenities.

7.2. Principle of the Development

7.2.1. The appeal site lies within an area that is zoned objective 'Z1 – Sustainable Residential Neighbourhoods' in the City Development Plan. Under this **zoning** objective, 'childcare facilities' are deemed a 'permissible use'. The accompanying commentary on this zoning objective seeks to provide a range of sustainable uses within easy access of established housing on 'Z1-zoned' lands. I note that the Departmental Circular PL3/2016 outlines the need to expedite planning applications for childcare facilities, but this must occur having regard to matters in the Planning & Development Act 2000, as amended, including the provisions of the Development Plan and Ministerial guidelines.

7.2.2. Policy SN17 of the Development Plan aims to facilitate the **provision** of fit-for-purpose childcare facilities in suitable locations, considering the existing provision of childcare facilities and emerging demographic trends in an area. The Childcare Guidelines require assessment of the number of childcare facilities in an area, while Appendix 13 of the City Development Plan requires assessment in the context of areas identified to be underprovided or overprovided for in terms of childcare provision. Within their application 'Design & Planning Report' the applicant addresses the existing provision of childcare facilities in the area and I note that no parties to the appeal have provided alternative figures to contest the demand for

childcare places in the area. Departmental Circular PL3/2016 outlines the extension of the 'Early Childhood Care and Education' (ECCE) Scheme and the anticipated consequence of such extension, is that this has the potential to result in a significant increase in demand for childcare places. In conclusion, in the context of the existing provision of childcare facilities and the expected increased demand for childcare places, there is likely to be a requirement for the facility in this area, but this should only occur subject to relevant planning and environmental matters, as discussed below.

7.3. Size, Scale & Nature of the Proposed Development

- 7.3.1. The grounds of appeal assert that the proposed development will lead to overdevelopment of a restricted site. The Development Plan recognises that in existing residential areas, detached houses or substantial semi-detached properties of sufficient **size** will generally be permitted to accommodate childcare facilities, subject to traffic and general amenity considerations. While the subject end-of-terrace property does not comfortably sit within this policy context, the Development Plan is not prescriptive in restricting use of terrace properties for such purposes and does lead onto state that the provision of pre-school and after-school facilities may be considered in any residential area, but only where it would be **ancillary to the main residential use**. I recognise that the owner of the house on site will manage the childcare facility.
- 7.3.2. The proposed development as originally submitted to the Planning Authority, involved the **subdivision of the property** with two separate uses, the house and childcare facility, and with primary access to the childcare facility off the gated laneway to the side, which is not a public right of way. A secondary access would be available from the rear of the house to the childcare facility. The Planning Authority sought further information to address the subdivision of the site and the applicant submitted three revised access options, two of which involved partial use of the laneway and another solely involving access internally through the house. The Planning Authority were not satisfied with the proposal to use the gated laneway in accessing the facility and I note their concerns in this regard. Despite some concerns, the Planning Authority considered the only acceptable means of access would be through the house on site.

7.3.3. In conclusion, having regard to the size, nature, scale and configuration of the proposed development on a terraced site and adjacent to a gated laneway, and with primary access into and out of the facility internally through the existing house, it is considered that the proposed development would constitute a haphazard form of development at variance with the predominant pattern of development in the area and the childcare facility would become an overly-dominant use of the overall site. Accordingly, the proposed development would detract from the existing pattern of development in the area and would be contrary to the provisions of Section 16.18 of the Dublin City Development Plan 2016-2022 and would set an undesirable precedent for further such developments in the area.

7.4. Traffic & Parking

- 7.4.1. The primary grounds of appeal relate to safety concerns arising from the additional **traffic** and parking attracted to Kinvara Road. The Roads & Planning Division of Dublin City Council did not comment on the proposals. The grounds of appeal state that the greatest demand for parking in the area occurs during school term, when children attending neighbouring schools are dropped-off and picked-up. This is added to by the limited parking available at the local neighbourhood centre on Kinvara Park and the narrow width of the roadway (c.6m) to Kinvara Road. Given the proximity to the Navan Road and associated bus routes, and the absence of on-street parking charges or permits, some commuter parking is likely. I note that grass verges in the immediate vicinity have been replaced by tarmac which is likely to be indicative of the high demand for on-street parking. Most of the properties along the immediate street include a vehicular access to a parking area at the front of the house.
- 7.4.2. It is stated by the applicant that the proposed sessional childcare use would cater for up to 20 children in a morning session (09:00 to 12:30) and in an afternoon session (13:30 to 17:30). The applicant highlights that the owner of the house on site will manage the childcare facility, many customers will visit the facility on foot and for the afternoon-session the operator will collect children from local primary schools. While I also recognise the capacity for customers and children in this suburban context to visit the facility on foot and for cross-visitation to shops and schools, it is likely that

many children will be dropped-off and collected by private vehicle, particularly pre-school children.

- 7.4.3. The Development Plan does not outline **parking standards** relating to childcare facilities, but I would expect that 2 to 3 staff would be required in the proposed facility based on the number and ages of children. Consequently, it is vital that sufficient parking for both the house and childcare facility is available, along with safe and convenient drop-off and pick-up, as is also required under the Development Plan and 'Childcare Guidelines'. Following submission of the further information response with access through the house, only one off-street parking space would be available within the site for residents of the house and for customers and staff of the childcare facility. Drop-off and pick-up would invariably have to take place from the front street. While I accept that much of the associated parking would be for short stays and would be concentrated during drop-off and collection periods, the proposed development would place significant additional demand for on-street parking, particularly during these periods.
- 7.4.4. In conclusion, it is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users as a direct result of the shortfall in off-street parking and the lack of dedicated drop-off and collection points, in an area experiencing significant demand for on-street parking and with limited capacity to absorb overspill parking from the proposed childcare facility.

7.5. Impact on Local Amenities

- 7.5.1. The grounds of appeal raise concerns regarding the impact of the proposals on neighbouring residential amenities, including restriction of light or **overshadowing**. I note that the proposed building would be sited directly to the south of outbuildings and the garden to the appellant's property at No. 5 Kinvara Road. The proposed building would be a pitched-roof structure with eaves height of 2.6m and roof ridge height of 4.7m. This building would replace the existing 2.7m-high mono-pitch roof outbuilding and would extend for a depth of almost 12m along the common boundary with No. 5. Given the context adjacent to neighbouring outbuildings, the replacement of an existing, albeit smaller building, the design, pitched roof and height of the proposed building and the depth of the adjoining garden, I do not

consider that the proposed development would significantly impact on residential amenities due to excessive overshadowing.

- 7.5.2. As part of this facility there is an outdoor play area and the grounds of appeal raise concern regarding the resultant **noise** impact. The size of this play area maintains sufficient garden space (60sq.m) for the house in line with Development Plan standards (60 to 70sq.m. minimum required). Details of the proposed 'hit and miss' style fence separating the space are not included in the application. Considering the juxtaposition and proximity of this outdoor play area relative to neighbouring terraced dwellings (7m to the southeast of the appellant's property) and the anticipated number of users, the proposed development has the potential to generate significant levels of noise in an established residential area with narrow plots. In my opinion, this would have a detrimental impact on the amenities of residents in neighbouring properties and would be contrary to the development standards for childcare facility, as set out in Section 16.18 of the Development Plan.
- 7.5.3. The grounds of appeal assert that the proposed building will form an imposing structure in the rear garden. I note that most of the properties backing onto the rear laneway feature outbuildings, although most of these outbuildings are a lower height and lesser scale to the subject proposed building. In my opinion, when viewed from the rear of neighbouring properties, the shed will have **limited visual impact**, as it will be viewed as part of the cluster of outbuildings backing onto the rear access lane. Accordingly, the development would not give rise to an unacceptable impact on the visual amenities of the area and should not be refused for this reason.
- 7.5.4. In conclusion, while the proposed development would have minimal impact on the visual amenities of the area, the proposed development would have an unacceptable impact on local amenities arising from noise.

8.0 **Appropriate Assessment**

Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that permission is **refused** in accordance with the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the existing pattern of development in the vicinity and the size, scale, nature and configuration of the proposed development on a terrace site, with access through the house, it is considered that the proposed development would constitute a haphazard form of development at variance with the predominant pattern of development in the area and the childcare facility would become an overly-dominant use of the overall site and would result in noise nuisance to adjoining and neighbouring properties. Therefore, the proposed development would be contrary to the provisions of Section 16.18 of the Dublin City Development Plan 2016-2022, would seriously injure the amenities of the area and of property in the vicinity and would set an undesirable precedent for further such developments in the area. It is therefore considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of the scale and capacity of the childcare facility, located along a narrow residential road, in an area experiencing significant demand for on-street parking and with limited capacity to absorb any overspill parking from the proposed childcare facility, and the failure to provide safe and convenient arrangements for dropping off and collecting of children, would result in serious traffic congestion and hazard and thus would detract from the residential amenity of the area. The proposed development is therefore considered to be contrary to the zoning objectives and development standards of the Dublin City Development Plan 2016 - 2022, would seriously injure the amenities of the area and property in the vicinity and, therefore, would be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

1st August 2017