



An  
Bord  
Pleanála

## Inspector's Report PL06F.248765.

---

<b>Development</b>	Single storey extension to the rear of an established approved pre-school.
<b>Location</b>	Rear of 68 Cianlea, Swords, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F17A/0195.
<b>Applicant(s)</b>	Martine McConnell.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party.
<b>Observer(s)</b>	Dermot Fogarty.
<b>Date of Site Inspection</b>	19 <sup>th</sup> September 2017.
<b>Inspector</b>	Karen Kenny.

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
2.2. Decision .....	3
2.3. Planning Authority Reports .....	4
2.4. Prescribed Bodies .....	4
2.5. Third Party Observations .....	5
3.0 Planning History.....	5
4.0 Policy Context.....	5
4.1. Development Plan.....	5
4.2. Natural Heritage Designations .....	6
5.0 The Appeal .....	7
5.1. Grounds of Appeal .....	7
5.2. Planning Authority Response .....	7
5.3. Observations .....	8
6.0 Assessment .....	8
6.2. Principle of Development and Compliance with Policy.....	9
6.3. Impact on Residential Amenity .....	10
6.4. Traffic and Parking Impacts.....	11
7.0 Recommendation.....	12
8.0 Reasons and Considerations.....	12

## 1.0 Site Location and Description

- 1.1. The site is located in Cianlea, a housing estate on the western periphery of Swords. The estate is accessed from the Rathbeale Road. The area is characterised by semi-detached dwellings and the appeal site fronts onto the main spine road into the estate.
- 1.2. The site has a long narrow plot with a stated area of 0.610 square metres. There is a two storey semi-detached dwelling on the site with an attached pre-school facility. The pre-school is contained in a single storey extension to the side (south) and rear of the main dwelling. The site is bounded by two storey semi-detached dwellings to the north and south and by agricultural lands to the rear.

## 2.0 Proposed Development

- 2.1. The proposed development comprises a single storey extension to the rear of an existing pre-school as follows:
  - The pre-school offers sessional services of 3-hour duration with morning and afternoon sessions.
  - The existing pre-school comprises of a single classroom with toilet facilities and has a stated floor area 50 square metres.
  - The plans submitted with the application detailed an extension with a stated floor area of 47.3 square metres. The applicant has submitted revised drawings for the consideration of the Board that reduce the floor area to 38.5 square metres.

### 2.2. Decision

Refuse Permission for 3 no. reasons. The reasons for refusal can be summarised as follows:

- Unacceptable intensification of commercial activity that would seriously injure the residential amenities of neighbouring dwellings and contravene the residential zoning objective.

- Development by reason of the extent, depth and proximity to site boundaries would seriously injure the residential amenities of neighbouring properties.
- In the absence of appropriate set-down and parking facilities the development would be likely to give rise to serious traffic congestion and obstruction of road users.

### 2.3. **Planning Authority Reports**

#### 2.3.1. Planning Reports

- Development is excessive. While the site benefits from a large rear garden the overall depth of the extension is such that the residential amenities of adjoining units would be negatively impacted.
- Serious concerns in relation to the intended commercial use of this large structure. It is considered that it would significantly alter the nature of the property and that the commercial childcare facility would no longer be subservient to the primary residential use of the site.
- Impact of large commercial development in an established residential area would be unacceptable.
- In absence of designated parking or set down the development would be likely to obstruct road users and give rise to serious traffic congestion.

The Planning Officer's Report recommended that permission be refused.

#### 2.3.2. **Other Technical Reports**

Transportation: No objection.

Irish Water: No objection.

Water Services: No objection.

### 2.4. **Prescribed Bodies**

None.

## 2.5. Third Party Observations

Three submissions were received and considered by the Planning Authority. The issues raised that are relevant to the appeal include the following:

- Support for the proposed pre-school facility. No observed traffic issues.
- Traffic, noise, disruption associated with development.
- Traffic safety issues and obstruction of road users due to car parking associated with the existing facility.
- Scale of commercial development not appropriate in residential area.

## 3.0 Planning History

F02A/1003: Permission for extension to approved playschool. Granted. The permission is subject to a condition that a maximum of 12 children be catered for in the facility at any one time.

F99B/0236: Permission for single storey extension for domestic use. Granted.

F97A/0242: Permission for a single storey extension to side of the house for use as a playschool. Temporary permission granted.

## 4.0 Policy Context

### 4.1. Development Plan

The Fingal County Development Plan 2017-2023 is the relevant statutory plan. A number of Development Plan objectives are considered to be relevant:

- The site is zoned 'RS – Residential' with an objective to 'provide for residential development and protect and improve residential amenity'. The zoning vision is to 'ensure that any new development in existing areas would have a minimal impact on an enhance existing residential amenity'.
- Objective PM74: Encourage the provision of childcare facilities in appropriate locations, including residential areas, town and local centres, areas of employment and areas close to public transport nodes.

- Objective PM75: Ensure that childcare facilities are accommodated in appropriate premises, suitably located and with sufficient open space in accordance with the *Childcare (Pre-School) Services) (No. 2) Regulations 2006*.
- Objective DMS94: Any application for childcare facilities shall have regard to the following:
  - Suitability of the site for the type and size of facility proposed.
  - Adequate sleeping/rest facilities.
  - Adequate availability of indoor and outdoor play space.
  - Convenience to public transport nodes.
  - Safe access and convenient off-street car parking and/or suitable drop-off and collection points for customers and staff.
  - Local traffic conditions.
  - Intended hours of operation.
- Objective DMS95: Residential properties with childcare shall retain a substantial residential component within the dwelling, and shall be occupied by the operator of the childcare facility.
- Appendix 4: Technical Guidance Notes – definitions of use classes:
  - Sessional Childcare: This category is defined as the provision of a service which offers a planned programme to pre-school children of up to 3.5 hours per day by trained personnel.
  - Appendix 4 states that where the (childcare) facility is provided in a house within a residential area, the following conditions will generally apply: It should be operated by the resident living in the house; The use should be subordinate to the use of the dwelling as a main residence; In all cases, the use shall not be injurious to the residential amenities of the area (e.g. it will not result in unacceptable levels of noise or on street car parking etc.).

#### 4.2. Natural Heritage Designations

None.

## 5.0 The Appeal

### 5.1. Grounds of Appeal

A first party appeal has been received. The principal grounds of appeal are summarised as follows:

- Site located in an established residential estate and is the only facility serving 400 no. dwellings. The proposal is consistent with the zoning objectives and policy objectives in relation to childcare.
- Appeal submission proposes to reduce the ridge height of proposed extension from 4.3 metres to 3.9 metres and to reduce the floor area from 47.3 square metres to 38.5 square metres. The submission states that this would reduce the number of children to be accommodated from 20 to 15 no. children (35 no. children overall).
- Appeal submission shows space for 3 no. car parking spaces in the driveway and refers to an area for set down along the roadway to the front.
- Pre-school policy to encourage walking to school and most children walk.
- Site is large and has ample external play area for the children.
- The development will remain ancillary to the main dwelling.
- The development will not impact on residential amenity. No overlooking or overshadowing of adjacent properties.
- Council have been inconsistent in refusing permission. Reference to recent decisions made under PA Ref. F17A/0228 and F12A/0224.
- Letters from owner of facility and from users of the facility included with the appeal.

### 5.2. Planning Authority Response

The response of the planning authority is summarised as follows:

- Proposed amendments do not address the reasons for refusal. The depth of the extension remains identical to that refused by Fingal County Council and the number of children has increased from 34 to 35 no. children.
- The Planning Authority in making its decision was bound by the residential land use zoning objective and the zoning vision.
- The commercial scale of the development would constitute an unacceptable intensification of commercial activity in an established residential area and injure the residential amenities of the area.
- The cumulative impact of the proposed extension when taken in conjunction with previous extensions would seriously injure the amenities of neighbouring properties. The childcare use would be no longer subordinate to the primary residential use, but more akin to a commercial scale childcare facility typically accommodated in a town centre location or on lands zoned for employment or community purposes, where negative residential amenity impacts generally do not arise.
- By reason of the lack of any dedicated parking, set down or turning areas, the development is unsuited to this established residential area and would give rise to serious traffic congestion on the main spine road leading into the estate.
- The Planning Authority is cognisant of the need to facilitate the provision of childcare facilities. However, in this instance the negative impacts that would arise are considered to exceed the threshold of what would reasonably be considered acceptable.

### 5.3. **Observations**

- 5.3.1. One observation has been received from an adjacent resident. The observation states that there is nothing to add to a previous objection.

## 6.0 **Assessment**

- 6.1.1. The assessment below is confined to the planning merits of the case. I consider that the main issues in this case are as follows:



- Principle of Development and Compliance with Policy
- Impact on Residential Amenity
- Traffic and Parking Impacts
- Appropriate Assessment

## 6.2. Principle of Development and Compliance with Policy

- 6.2.1. The first reason for refusal states that the development would result in an unacceptable intensification of commercial activity in an established residential area, seriously injure the residential amenities of the occupants of neighbouring dwellings and materially contravene the zoning objective for the area.
- 6.2.2. The Fingal County Development Plan 2017-2023 is the relevant statutory plan. The appeal site is zoned “RS” with an objective to “provide for residential development and protect and improve residential amenity”. Childcare facilities are ‘permitted in principle’ in this zone and it is also an objective of the Development Plan to encourage the provision of childcare facilities in appropriate locations, including residential areas (Objective PM74). Objective DMS94 states that any application for a childcare facility shall have regard (inter alia) to: the suitability of the site for the type and size of facility proposed; safe access and suitable drop-off and collection points; local traffic conditions; and hours of operation. Objective DMS95 requires residential properties with childcare to retain a substantial residential component within the dwelling. The Technical Guidance Notes for use classes set out in Appendix 4 of the Development Plan state that where a childcare facility is provided in a house within a residential area, it should be operated by the resident living in the house; the use should be subordinate to the use of the dwelling as a main residence; and in all cases, the use shall not be injurious to the residential amenities of the area (e.g. it will not result in unacceptable levels of noise or on street car parking etc.).
- 6.2.3. The Development Plan clearly supports the provision of childcare facilities in residential areas, subject to the criteria outlines in Section 6.2.2 above. The revised plans submitted with the appeal propose to increase the floor area of an existing childcare facility from 50 square metres to 85.5 square metres and to accommodate up to 35 no. children during morning and afternoon pre-school sessions (70 no.

children per day). The facility approved under PA Ref. F02A/1003 has permission to accommodate 12 no. children at any one time and I note based on the information submitted with the application that the existing facility accommodates 20 no. children during each session (40 no. children per day). I consider that the proposed development represents a significant intensification of the established facility. While a substantial residential element is to be retained, I would not consider the proposed facility to be subordinate to the existing dwelling. Having regard to the scale of the facility, its location to the side and rear of the existing dwellings and the absence of set-down facilities (as discussed further in Section 6.4 below), I consider that the appeal site is not suitable for the type and size of facility proposed and that it would generate noise and disturbance, in particular during drop off and collection times, that would be injurious to the residential amenities of the area.

### **6.3. Impact on Residential Amenity**

- 6.3.1. The second reason for refusal states that the development would seriously injure the amenities of neighbouring properties. The proposed extension is a low profile single storey extension that would extend by c. 19 metres to the rear of the established building line, and maintains a setback of c. 1.4 to 2.2 metres off the southern property boundary. I consider that the development would not give rise to overlooking or overshadowing of adjacent properties or be unduly overbearing when viewed from adjacent property to the south. However, as discussed in Section 6.2 above, given the scale of the development, its proximity to adjacent residential properties and having regard to the backland nature of the development within the site, I consider that there is potential for undue noise and disturbance associated with the operation of the pre-school and with the associated traffic movements at drop off and collection times. The sessional nature to the facility, with drop off and collections for each session would further contribute to the impacts.
- 6.3.2. In terms of the amenity of the existing residential property on the site, I note that the play area for the pre-school would extend across the entire rear garden area of the existing dwelling and that no private amenity space is retained for the dwelling. I consider that the proposed development is therefore substandard by reference to the private open space standards set out in the Development Plan (Objective DMS87 and DMS88 refer).

#### **6.4. Traffic and Parking Impacts**

- 6.4.1. The third reason for refusal states that the development would be likely to give rise to serious traffic congestion and obstruct road users. The proposed facility would have a car parking requirement of three spaces, based on the standards set out in Table 12.8 of the Development Plan (0.5 spaces / classroom; and 2 spaces / 3-bedroom house). Information submitted with the appeal shows potential for three car parking spaces in the curtilage of the dwelling which, based on the two classroom set up proposed would meet the Development Plan Standards.
- 6.4.2. In addition to car parking, Objective DMS94 and Appendix 4 of the Development Plan refer to the need for appropriate set down facilities. I note based on the submitted information that the proposed development would provide two sessional pre-school services for a maximum of 35 no. children at any one time (70 no. children per day). The grounds of appeal argue that there is adequate space on the public road to accommodate vehicular set down. The roadway to the front is a main access road into the residential development. It is six metres in width with vehicular entrances at regular intervals. While some on street set down could be accommodated on the roadway, the volume of traffic associated with drop offs and collections times for up to 70 no. children each day would be significant. I consider that the volume of traffic associated with a commercial development of this scale would not be adequately accommodated within the site or on the adjacent roadway, and that in the absence of appropriate set-down facilities the development would result in a traffic hazard.

#### **6.5. Appropriate Assessment**

- 6.5.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular the location of the site in a serviced 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.

## 7.0 Recommendation

- 7.1.1. Further to the above assessment of matters pertaining to this appeal, including the consideration of the submissions made in connection with the appeal and my site inspection, I recommend that permission be refused for the reasons and considerations outlined below.

## 8.0 Reasons and Considerations

1. The site is zoned Residential (RS) in the Fingal County Development Plan 2017-2023, with an objective to 'provide for residential development and protect and improve residential amenity'. The Fingal County Development Plan (Objective PM74, DMS94 and DMS95) supports the provision of childcare facilities in existing residential areas subject to considerations that include the suitability of the site for the type and size of facility proposed, the adequacy of drop off and collection points for customers and staff and the impact on amenities of adjoining properties. It is considered that noise and disturbance associated with a development of the scale proposed would detract from the residential amenities of adjacent properties, due to the limited separation from adjacent dwellings. Furthermore, the site is located on a busy road and in the absence of adequate set-down facilities for the drop off and collection of customers and staff, the development would endanger public safety by reason of traffic hazard. It is considered, therefore, that the proposed childcare facility does not accord with the overall zoning objective for the area and the relevant policies set out in the Fingal County Development Plan 2017-2023 and that the proposed development would be contrary to the proper planning and sustainable development of the area.

---

Karen Kenny

Senior Planning Inspector

2<sup>nd</sup> October 2017