



An
Bord
Pleanála

Inspector's Report PL08.249011

Development	Retention, reconfiguration and extension of montessori school.
Location	Montessori House of Children, Bradgate and Sallywood, Countess Road, Killarney, County Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	16/647.
Applicant	Montessori House of Children.
Type of Application	Permission.
Planning Authority Decision	To grant permission subject to conditions.
Type of Appeal	Third Party v. Decision.
Appellants	Ann Courtney, Michael Hickey and Grace O'Neill.
Observers	None.
Date of Site Inspection	6 th October, 2017.
Inspector	Brendan Wyse.

1.0 Site Location and Description

- 1.1. The appeal site is located a short distance to the east of Killarney town centre on the northern side of Countess Road at its junction with Rookery Road. It comprises the combined curtilages of a semi-detached house, 'Bradgate', and a detached house, 'Sallywood'. The existing Montessori House of Children occupies the extended ground floor of 'Bradgate'. The upper floor appears to be used for associated purposes. Both properties have substantial rear gardens backing onto a railway line.
- 1.2. Both Countess Road and Rookery Road are generally characterised by low density residential development. Being relatively close to the town centre and forming part of the local through road network in this part of Killarney they are quite heavily trafficked. Saint Olivers National School is located approximately 250 metres to the south along Rookery Road.
- 1.3. The Countess Road – Rookery Road junction is priority controlled. Traffic calming/pedestrian priority measures in the vicinity include a ramped pedestrian crossing a short distance to the west on Countess Road and traffic slow markings and a school warden crossing a short distance to the south along Rookery Road. Double yellow lines extend on both sides of both roads away from the junction. The 50kph speed limit zone commences just before the pedestrian crossing on Countess Road. Bollards are in place in front of some of the houses in the vicinity of the crossing.
- 1.4. Maps and photographs in file pouch.

2.0 Proposed Development

- 2.1. The Board will note that the application was first submitted to the planning authority on 4th July, 2016. Following a request for further information the application was substantively revised in a submission to the planning authority on 24th May, 2017. This submission included revised public notices. These notices were subsequently revised further to refer to a slight change to the site boundary – copies submitted to the planning authority on 21st June, 2017. This submission also referred to the site

plan submitted to the planning authority on 7th June 2017 as the definitive plan for the purposes of the application.

2.2. In substance, therefore, the proposed development before the Board on appeal is that described in the public notices submitted to the planning authority on 21st June, 2017, on the site plan submitted on 7th June 2017 and in the drawings and other documentation submitted to the planning authority on 24th May, 2017.

2.3. The proposed development comprises:

(i) Retention for:

(a) Increased number of students attending, from the 15 no. places previously approved under P.A. Ref. 93/202467, ABP Ref. 63.091650.

(b) Revised hours of operation of between 8.30 a.m. and 5.15 p.m.

(ii) Permission for:

(a) Change of use of 'Bradgate' to residential.

(b) Change of use of 'Sallywood' from residential to childcare/montessori school to accommodate 66 no. childcare places.

(c) Extension to 'Sallywood', part two-storey (to side) and part single-storey to rear and front.

(d) Reconfiguration of site frontages to provide for a combined parking and drop-off area.

2.4. Documentation included with the submission to the planning authority on 24th May, 2017 included:

- Cover Letter. This indicates the current number of children attending the facility at 40 in the morning session and 30 in the afternoon session (to 5.15 pm). It also refers to existing and proposed operation of staggered opening hours and suggested potential improvements to the Countess Road/Rookery Road junction.
- Updated Traffic and Transport Assessment Report.
- Stage 1 Road Safety Audit.

- DOECLG Circular Letter PL 3/2016 relating to childcare and the planning system.

2.5. The Board will note that the original application documentation includes substantial background information on the Montessori House of Children and justification/support for its further development.

3.0 Planning Authority Decision

3.1. Decision

This is a decision to grant permission subject to 15 conditions.

Conditions include:

3. Development contribution of €15,612.
4. Special contribution of €5,000 towards the provision of bollards in the vicinity of the pedestrian crossing on Countess Road.
7. All recommendations of Stage 1 Road Safety Audit to be carried prior to occupation. Detailed design for implementation of recommendations to be submitted prior to commencement of the development.
8. A Stage 2/3 Safety Audit to be completed after construction and all recommendations actioned prior to operation of car park.

3.2. Planning Authority Reports

3.2.1. Planning Reports (undated)

Basis for Planning Authority decision.

Include:

- Montessori school at the location since 1993.
- Proposed development is an intensification and will give rise to more traffic, both pedestrian and vehicular.
- Revised proposals, including staggered class times etc., will lessen the impact on the residential amenities of adjoining properties.

- Location, close to the town centre, to St. Olivers National School, to other crèche and healthcare services, is considered appropriate for extended montessori school.
- EIA Screening – no requirement for EIA.
- AA Screening – no requirement for AA.

3.2.2. **Other Technical Reports**

Engineering Operations

Conditions specified - included in the planning authority decision.

Fire Authority

No objections.

3.3. **Third Party Observations**

- 3.3.1. Submissions, objecting to the proposed development, were received by the planning authority by/on behalf of approximately 50 local residents. The issues raised are similar to those raised in the grounds of appeal (see Section 6.1 below). Four submissions in support of the development were also received.

4.0 **Planning History**

P.A. Ref. 93/2467, ABP Ref. 63.091650

This is the original 1993 permission for the montessori school. The permission was for an extension to the house (Bradgate) for use as a montessori school.

The decision to grant permission referred to the limited scale of the development.

Conditions included:

1. Operational hours restricted to 0800 to 1400 Monday to Friday.
2. Number of children restricted to a maximum of 15 at any time.
3. Proposed extension/montessori school and the existing house to be retained as a single unit in one ownership and not disposed of separately.

File attached.

It is noted that the property has also been further extended to the rear.

P.A. Ref. U059-16 [Enforcement file]

Warning Letter under section 152 of the Planning and Development Act issued in June 2016 in relation to possible unauthorised development. Proceedings subsequently put on hold following receipt of application for permission. See Appendices 4 and 5 attached to grounds of appeal for details.

5.0 Policy Context

5.1. Development Plan

5.1.1. Killarney Town Development Plan 2009 – 2015 (extended)

The site is located in an area subject to the zoning objective 'Existing Residential'.

The objective is to provide for and improve residential amenities (section 12.3.3).

Permitted uses include; playgroup or crèche, schools/educational facilities.

Section 12.58 indicates support for the provision of a broad range of childcare facilities. In general, they are to be assessed by reference to:

- Suitability of site/premises and effects on amenities of area.
- Adequacy of vehicular and pedestrian access and parking including set down.
- Adequacy of outdoor play area.
- Ease of accessibility for all.

Appendix 2 indicates a car parking requirement for playschools/creches of 1 space per employee and adequate set down/loading area. For a house the requirement is 1-2 spaces (town centre/suburbs) and 0.25 spaces for visitors.

5.1.2. Kerry County Development Plan 2015 – 2021

Policy SC-22: Encourage, promote and facilitate the sustainable provision of quality affordable childcare facilities in accordance with national policy and relevant guidelines.

Policy SC-23: Permit childcare facilities in existing residential areas provided that they do not have a significant impact on the character or amenities of an area,

particularly with regard to car parking, traffic generation and noise disturbance. Where proposed facilities relate to properties which have been designed and built as dwellings and are surrounded by other houses, a significant residential element should be retained.

In terms of parking standards for childcare facilities the plan requires 1 space per employee and 1 space per 4 children. For a house the requirement is 2 spaces.

5.2. National Policy/Guidelines

5.2.1. DOECLG Circular Letter PL3/2016

Includes:

- Having regard to the extension of the Early Childhood Care and Education (ECCE) Scheme a request to planning authorities to expedite decisions on applications involving any expansion of childcare capacity.
- Advice to planning authorities to exclude matters relating to childcare facility standards contained in Appendix 1 of the 2001 Guidelines from consideration of planning applications.

All of the above to be effective from September, 2016.

5.2.2. Childcare Facilities – Guidelines for Planning Authorities, DOEHLG 2001.

These guidelines are currently under consideration by the Department for revision in line with the government's policy of increasing access to childcare.

Includes:

Sites within residential areas, on primary traffic routes and in the vicinity of schools identified as potentially suitable for childcare facilities. Detached houses/or substantial semi-detached properties also referenced.

Development management criteria for assessing proposals include parking/drop-off facilities and outdoor play areas.

5.3. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The appeal is lodged on behalf of Ann Courtney and Michael Hickey, 'Avalon', Countess Road, Killarney and Grace O'Neill, 'Tamarisk', Countess Road, Killarney. 'Avalon' is located a short distance to the west of the appeal site and 'Tamarisk' adjoins 'Bradgate'.

The main grounds of appeal can be summarised as follows:

Validity of Application

- The public notice is inadequate in not properly describing the nature and extent of the development by reference to:
 - Failure to refer to the number of childcare places currently on site.
 - Failure to refer to the proposed at least 66 places in morning and afternoon.
 - Failure to refer to the currently authorised restricted hours of operation.
- The current business is unauthorised as it materially contravenes Conditions 1 and 2 of the original permission and by reason of its physical expansion from the one room extension permitted for montessori use to the entirety of 'Bradgate'.
- The applicant has not lived at 'Bradgate' for 12 years and there is no residential use on site. The montessori use occupies the entire ground floor and the first floor is used for associated purposes. This breaches Condition 3 of the original permission.
- The public notice, in referring to a change of use of the original 'Bradgate' to residential, fails to acknowledge the permitted use as residential, with subsidiary montessori use, or the current unauthorised use. It is not legally possible to change unauthorised montessori use to residential or to legitimise the unauthorised use and change it to residential.
- It is not legally permissible to include 'Sallywood' for the purposes of the retention element of the development.

- The use of the word 'Reconfiguration' in relation to the entrance proposal belies the true extent and volumes of traffic movements that would be associated with the development.
- By reference to Articles 17, 18 and 26(3)(a) and (b) of the Regulations the application is invalid.

Traffic and Parking

- This is a major issue of concern.
- Every day during the school year c.170 junior/senior infant pupils from St. Olivers Primary School go home at lunchtime clashing with the proposed midday drop-off/pick-up at the Montessori House of Children.
- The proposed evening pick-up time clashes with increased commuter traffic on Countess Road.
- There is ad hoc on-street parking associated with drop-off/pick-up at the montessori.
- Several residents in the vicinity have attempted to counteract dangerous and illegal parking on the footpath by placing bollards outside the front of their properties.
- Such parking interferes with the safe operation of the pedestrian crossing on Countess Road. Condition 4 attached to the Planning Authority decision is noted in this regard.
- The proposal could result in 66 children arriving/departing in three 3-hour sessions on a 7-day week basis. So for two periods in the day 132 children could be dropped off/collected at the montessori.
- The proposed layby/drop-off arrangement is not practical for very young children. This is especially so in relation to the greater numbers with special needs, as proposed. These would require larger vehicles and more time for drop-off/collection. Further congestion and illegal parking would result.

- The Applicant's Traffic Impact Assessment reports are deficient by reference to:
 - Failure to analyse impact of manoeuvres associated with entry/exit on traffic flows.
 - Cars blocking the footpath on queuing to enter/exit.
 - No assessment of internal parking arrangements on traffic through flow.
 - No assessment of the impact on adjacent entrances to the east and west.
- The parking spaces indicated appear to be smaller than the required minimum dimensions.
- Potential danger associated with passing manoeuvres within the drop-off area as the width of the through road, at 4.2 metres, could accommodate two cars.
- The car dominated front area to the montessori would create an unsafe environment for pedestrians, especially very young children.
- There is a significant shortfall in parking spaces relative to development plan standards.
- The Stage 1 Road Safety Audit submitted on 24th May, 2017 indicates serious traffic safety concerns. The planning authority's reliance on their Conditions 7, 8 and 11 fails the tests for attachment of conditions in that they are not precise, enforceable or reasonable.

Residential Amenity

- By reference to Policy SC-23 of the Kerry County Development Plan the proposed development, effectively resulting in the use of the entire dwelling of 'Sallywood' and part of 'Bradgate' for montessori purposes, does not equate to retaining a significant residential element on the site.
- Noise nuisance is likely on a continuous basis, particularly when there is a large group of children in the garden. With all children in the garden this would equate to a 2/3 classroom school playground in close proximity to adjacent residential properties.

- The proposal would adversely affect the residential amenities of 'Bradgate'. The rear garden would be surrounded by the outdoor montessori space. Car parking would be inaccessible during drop-off/collection and pedestrian access adversely affected.
- On-street parking frequently blocks residents' driveways in the area and adverse traffic conditions give rise to real concerns in relation to pedestrian safety.
- The proposed side extension to 'Sallywood', linking to the side classroom extension at 'Bradgate', would present a strong terraced appearance in the context of existing detached and semi-detached houses. The adjacent semi-detached house to the west, 'Tamarisk', would become an annex to school buildings.
- There would be overlooking from the first floor commercial areas at 'Sallywood' to the rear gardens of 'Tamarisk' to the west and 'Roslein' to the east.
- The proposal fails to meet the residential zoning objective for the area, would adversely impact on residential amenities and would depreciate the value of property in the vicinity.

Planning Authority Assessment

- The planning authority reports are deficient in that they do not include a critical analysis or assessment of the relevant planning issues.

Precedent An Bord Pleanála Cases

- Reference to ABP Refs. 29S.244173 and 17.244086 – refusals of permission for childcare facilities on traffic safety and residential amenity grounds.

Conclusion

- Reference to purpose built 'Bebe' childcare facility located c.250 metres west of the proposal at Avenue, Countess Road – ABP Ref. 63.205052. Integrated with an overall residential development with an internal access road and dedicated parking/drop-off facilities.

Attachments

- Appendices 1 and 2: Reports in relation to traffic/transport issues.
- Appendix 3: Report on planning issues.
- Appendices 4 and 5: Copy enforcement correspondence.
- Appendix 6: Pictures illustrating traffic/safety concerns.

6.2. Applicants Response

6.2.1. Includes:

Clarification

- The montessori will operate two sessions per day, with each session catering for a maximum of 66 children, Monday to Friday only.
- The sign at the front boundary is exempted development.

Validity of Appeal

- The appellants formerly submitted two separate objections to the planning authority but have now combined to submit one appeal with one fee. This is not a valid appeal approach.

Application Process

- Application documentation and the planning authority's assessment was to a high standard.
- It is not a function of the appeal process to invalidate the application.
- The proposal is fully in line with Government Policy as set out in DOECLG Circular Letter PL3/2016 (copy in Appendix 1).

Principle of a Montessori School on the Site

- The proposed use is entirely in accordance with the Kerry County Development Plan and the residential zoning of the site.
- Childcare Facilities – Guidelines for Planning Authorities identify the vicinity of schools as appropriate locations for such facilities as they facilitate single trips for parents.

Impact on Adjoining Properties

- The scheme has been carefully designed to protect the amenities of these properties.
- Since first operation in the early 1990's there have been no recorded complaints of noise.
- All necessary measures will be taken in the rear open space, such as installing acoustic insulation and sound buffers to boundaries, to reduce noise pollution.
- Children will only be outside for about half an hour each session, weather dependent, and all 66 children will not be outdoors at once.
- The proposed parking spaces and drop-off area, and staggered drop-off/collection, will help alleviate traffic and parking issues.
- The montessori school requires that no employee, other than the manager, parks at the school.
- Given the location, parents are encouraged to use alternative transport such as walking, cycling and public transport.
- The revised design provides for a discrete link between 'Bradgate' and 'Sallywood'. This eliminates any terraced effect and maintains the separate identities and characters of the houses.
- The change of use to 'Bradgate' will help to create a buffer to 'Tamarisk' thereby protecting its residential amenities.
- The first floor windows to the rear of 'Sallywood' serve a filing/store room, a landing and a bathroom. No significant overlooking of adjacent gardens is likely. The rear elevation of 'Bradgate' is 5 metres beyond that of 'Sallywood' thus further curtailing any possible overlooking.

Traffic/Car Parking

- The design of the drop-off area is in accordance with DMURS.
- Drop offs will be removed from Countess Road.
- The pedestrian crossing on Countess Road has recently been ramped and painted as a zebra crossing making it more visible to drivers.

- The Road Safety Authority road collision data records only one collision on Countess Road in 2005 at the junction with Rookery Road.
- The proposed development will significantly improve pedestrian safety on Countess Road.
- Planning authority Condition 4 requires a levy of €5,000 towards bollards at the pedestrian crossing that will ensure no parking in the vicinity.
- The Traffic and Transport Report and Road Safety Audit did address the issues raised by the appellants. The former also analysed the worst case scenario whereby each child arrives by car i.e. 1 car per child.
- The appellants traffic assessment report, dated August 2016, is not based on the development granted permission and is, therefore, not relevant.
- The existing montessori school is authorised.
- The Board's previous decision to grant permission for a very modest school was in the context of the accommodation available at that time. The proposed development must be dealt with on its own merits.

Planning Authority Assessment

- The proposal was properly considered by the Planning Authority.

Precedent Decisions

- The cases presented relate to the conversion of a domestic garage and an application that failed to address retention issues. They are not relevant.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

7.0 **Assessment**

7.1. 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 issues are addressed under the following headings:

- Policy
- Residential Amenity
- Traffic and Parking
- Validity of Issues
- Appropriate Assessment
- Other Matters

7.2. **Policy**

7.2.1. By reference to Section 5.0 above there is clearly substantial policy support for the development and expansion of childcare facilities, both at national and at local level.

7.2.2. DOECLG Circular Letter PL 2/2016, advising of the extension of the Early Childhood Care and Education (ECCE) Scheme, is the latest indication of the Government priority that is being attached to this matter. PolicySC-22 of the Kerry County Development Plan aligns with this approach in encouraging and promoting the provision of childcare facilities and the Killarney Town Development Plan contains similar provisions.

7.2.3. This support, however, is not unqualified. Any particular proposal will be assessed across a range of development management criteria, including; impacts on amenities of an area; car parking and set down arrangements; and adequacy of outdoor play areas. The 2001 Guidelines for Planning Authorities suggest sites within residential areas, on primary traffic routes and in the vicinity of schools as potentially suitable. The guidelines also specifically refer to detached houses or substantial semi-detached properties in this context. The appeal site is clearly one such site but the guidelines also advise that the above criteria should be applied in any assessment of an individual proposal.

- 7.2.4. It is also noteworthy that Policy SC-23 of the Kerry County Development Plan indicates that where facilities relate to properties designed and built as dwellings, and are surrounded by other houses, a significant residential element should be retained. The subject facility was clearly granted permission originally (1993) on this basis. The montessori school was to be accommodated in an extension to 'Bradgate' with the remainder of the house retained in residential use. It was limited to a maximum of 15 children at any one time with restricted operating hours to 2.00 pm only. The facility has clearly expanded very substantially beyond the terms of this permission. It now accommodates up to 40 children at any one time and operates for a full day. It also appears to effectively occupy the entire house, including a further ground floor extension, with no residential element retained.
- 7.2.5. The existing facility, therefore, is clearly in breach of this policy. In relation to the proposed facility the position is not so clear cut as it involves the combined curtilages of two houses and does involve the retention of the greater part of one in residential use.

7.3. Residential Amenity

- 7.3.1. The main issues raised in relation to this matter are; noise disturbance; terraced appearance; overlooking; and property values. Traffic and parking are also referenced in the context of residential amenity but these are dealt with separately in Section 7.4 below.
- 7.3.2. In terms of noise disturbance this is likely to arise mostly when children are at play in the rear garden area. The effects would be most pronounced in relation to the adjacent houses, 'Tamarisk' to the west and 'Roslein' to the east. Future occupants of 'Bradgate' would be similarly affected.
- 7.3.3. The significant scale of the proposed development is the first thing to consider in addressing this matter. Catering for up to 66 children at any one time the proposal is, in my view, in the nature of a substantial commercial operation. There is some credence to the appellants' assertion that it would equate to a 2/3 classroom school. All children outdoors at once would undoubtedly result in significant noise over and above what might ordinarily be expected in a residential area and significantly above that likely to be currently experienced by the neighbouring houses.

- 7.3.4. The applicant's response is to assert that not all children would be outdoors at once and that breaks outside would be for only about half an hour. They are also weather dependent. In terms of the latter, however, it is during periods of good weather that neighbours are most likely to enjoy their own back gardens and to open windows and doors to the rear of their houses. In relation to the former, staggered play breaks might actually exacerbate the situation by prolonging the overall play period. It is also worth noting that play periods would occur during the both mornings and afternoons.
- 7.3.5. I note the further suggestion by the applicants that all necessary measures, including the installation of acoustic insulation and sound buffers to boundaries, would be taken. I find this somewhat alarming. Apart from the likelihood of such measures being ineffective, they would represent an entirely disproportionate and inappropriate response in the type of residential context that applies in this case.
- 7.3.6. I would acknowledge that the rear garden area in this case is substantial, being most of the combined area associated with 'Bradgate' and 'Sallywood', that the residential layout in the vicinity is relatively low density so that separation distances are quite generous, that the garden boundaries are mature; and that the rear gardens back onto a railway line/embankment. Nevertheless, I consider that the scale of the proposed development is such that it would be likely to give rise to significant and undue noise disturbance to adjacent properties.
- 7.3.7. In terms of the contention that the proposed development would result in a terraced effect, where the existing character is defined by semi-detached and detached properties, I would find in favour of the applicants' position. I agree that the revised layout and design would maintain the prevailing built character of the houses. The direct link between 'Bradgate' and 'Sallywood' would utilise the existing side extension to the former which is well set back from the front building line. The two properties would still read, therefore, as separate and distinct 'houses' from a streetscape perspective.
- 7.3.8. In relation to overlooking the contention here is that this would arise from the upper rear of 'Sallywood' to the rear gardens of the adjacent houses in either side. The applicants point out that the upper floor rear facing windows would serve a filing/store room, a landing and a bathroom. They also refer to the setback relative to

the rear elevation of 'Bradgate'. I agree with the applicants that no significant overlooking would arise.

7.3.9. In terms of property values this is always a difficult matter to judge. It might be argued that residential values immediately adjacent to the proposed development would fall. However, it could equally be argued that the value of these properties for other purposes might rise. No substantive evidence is before the Board in relation to the matter. I do not consider, therefore, that any clear conclusion can be drawn.

7.3.10. In conclusion, therefore, I consider that the proposed development would seriously injure the residential amenities of property in the vicinity by reason of noise disturbance.

7.4. Traffic and Parking

7.4.1. It is evident (reference parag. 1.3 above) from the extent of traffic control measures, including pedestrian facilities, in the general vicinity of the Countess Road/Rookery Road junction that the junction is required to cater for significant vehicular and pedestrian movements at certain times. In addition to general peak hour traffic significant demand is most likely to arise in association with opening and closing times at St. Olivers National School located approximately 250 metres to the south of the junction. This is a large school, with in excess of 750 pupils, and it seems likely that about half of the traffic, vehicular and pedestrian, generated by the school would access the school via the Countess Road/Rookery Road junction. Photographs submitted with the grounds of appeal illustrate the type of traffic conditions that can arise.

7.4.2. These photographs also illustrate some of the parking issues that can arise associated with drop off/pick up at the montessori school and which the proposed development seeks to address by way of a dedicated parking area and drop off/pick up facility within the site curtilage.

7.4.3. In relation to parking requirements I note that there is a wide divergence in the standards set down for childcare facilities as between the Kerry County Development Plan and the Killarney Town Development Plan (see Section 5.1 above). The former specifies 1 space per 4 children and 1 space per staff member while the latter specifies just 1 space per staff member. The total parking requirement for the proposed development, therefore, under the county plan would be of the order of 24-

25 spaces and under the town plan of the order of 8 spaces [on the basis of 66 children, 6 staff members and 2 paces to serve 'Bradgate' as a house].

- 7.4.4. I have checked parking standards for childcare facilities in other planning authority areas [Cork City and County, Limerick City and County, Waterford City and County and Dungarvan Town] and there is considerable divergence amongst these authorities also. The requirement for the proposed development would range from a low of about 8-9 spaces (Cork County, Limerick City – outer core) to about 18-23 spaces (Limerick County, Limerick City – suburbs and all of Waterford, including Dungarvan). Only Limerick City – central core has the same standard as the Killarney Town Plan, at 1 space per staff member, but I do not consider that this is a comparable location. Dungarvan, which I would consider comparable, generates the highest requirement at about 23 spaces.
- 7.4.5. This matter, therefore, is a difficult one to judge. The proposed parking provision is clearly at the very lowest end of the spectrum. At just 5 spaces for the montessori school that is to accommodate 66 children and 6 staff members, it is one space short of the Killarney Town Plan standard. While one wider disabled space is to be provided the remaining spaces are of minimal dimensions where a more generous layout might have been expected given the significant number of special needs children catered for. I note the applicants position that the school requires that no employee, other than the manager, parks at the school and that parents are encouraged to use alternative transport such as walking, cycling and public transport. I note also the provision for cycle parking to the front of the premises in the proposed new layout. The proposed staggering of drop off and pick up times also needs to be considered.
- 7.4.6. On balance, I would conclude that the level of parking proposed is likely to prove seriously deficient and that on-street parking would still be a feature of the expanded facility.
- 7.4.7. In relation to the issue of traffic generation the most relevant sources of information before the Board are the applicants Updated Traffic and Transport Assessment Report submitted to the Planning Authority on 24th May, 2017 and the appellants Traffic Survey Report (September, 2016) submitted as Appendix 2 to the grounds of appeal. Both reports include surveys of existing drop off/pick up traffic at the

montessori school, the former conducted on two occasions, on Tuesday 15th March, 2016 (morning only) and Tuesday 31st May, 2016 (midday and afternoon), and the latter on Thursday 15th September, 2016 (all day). The surveys relate to the montessori school operation during 2016 and are, therefore, reasonably comparable.

- 7.4.8. Adjusting for time periods considered within the surveys the overall numbers of children observed being dropped off and picked up are quite similar – about 26-27 children dropped off in the morning; about 21-25 children picked up and about 19-23 children dropped off around midday; and about 19-21 children picked up late afternoon/evening. The main difference is in the number of cars observed with the appellants generally reporting significantly more. Again adjusting for time periods the ranges are; 27 v. 20 cars in the morning; 38 v. 29 cars midday; and 20 v. 10 cars late afternoon/evening. The differences are generally in the range 30-50%. The appellants survey, therefore, suggests a significantly higher rate of car use.
- 7.4.9. There are also some differences in reporting on dwell times associated with pick ups and drop offs. The appellants generally report longer times than the applicants – range generally 2 minutes to more than 5 mins. While both surveys refer to children being dropped off on foot the appellants suggest that in many cases these children were taken from cars parked further down Countess Road.
- 7.4.10. The applicant’s assessment of future car traffic generation is of particular significance. This is based on the survey as reported and, crucially, on the observed levels of car use relative to the total number of children registered per session rather than on the numbers of children actually attending. In other words, it assumes an absentee rate, indicated as being about 10% on average. On this basis it is proposed that the total number of cars/vehicles associated with the expanded facility, catering for up to 66 children per session, would be as follows:

Vehicles

Morning session drop off:	40
Morning session pick up:	42
Afternoon session drop off:	28
Afternoon session pick up:	28

- 7.4.11. I am not convinced that planning on the basis of an absentee rate is a reasonable way to proceed. I think that full attendance, 66 children per session, must be assumed. Coupled with the evidence presented by the appellants of significantly higher rates of car use I consider that the applicants' projections of trip generation by car/vehicle significantly underestimate the likely outcome.
- 7.4.12. The applicants also place significant emphasis on the existing and proposed staggering of drop off and pick up times. I accept that the applicant's survey results do indicate a reasonable dispersal of drop offs and pick ups through the relevant periods. The appellants' survey, however, while also indicating some dispersal, shows much more pronounced peaks. While I consider that staggered arrival/departing times can be of some assistance I would not give this measure too much weight as the outcome is not controllable. It is ultimately a matter for parents and I consider that the pattern of arrivals/departures is likely to be quite variable.
- 7.4.13. I have no issue with the applicant's conclusion that there is ample capacity on Countess Road to cater for a development of the type proposed and that the proposed development access junction arrangement also has adequate capacity and I note that both assessments are based on a worst case scenario. However, these assessments necessarily assume that the parking drop off/pick up area operates as intended.

There are a number of reasons to question this:-

- I have already concluded that parking space provision is deficient so is unlikely to function properly.
- Conflicting evidence in relation to drop off/pick up dwell times suggest this might not function as smoothly as intended.
- It is noted that all recommendations of the Stage 1 Road Safety Audit are to be implemented. The second recommendation of this audit is that the drop off area carriageway be reduced in width at the exit such that two vehicles cannot exit simultaneously. This will further restrict the free flow function of the area as proposed.

- 7.4.14. A further, and very significant, concern with the applicant's assessments, as summarised in graphic form in Figure 3.4 of their report, is the complete absence of

any substantive consideration of the impact on the operation of the Countess Road/Rookery Road junction, despite the location of the development effectively on the junction. Figure 3.4, in fact, presents Countess Road as a through road in the vicinity of the site with no junctions in the vicinity.

- 7.4.15. The only references in the report to the junction are the suggested improvements to the junction that the Local Authority might wish to consider in the future as part of a general local public road improvement programme. These are illustrated on drawings attached as Appendix A. These proposals were presented in response to the planning authority's further information request seeking clarity on the layout of the entrance to the proposed development and improvements propose dot the Rookery Road junction. It is emphasised that they are sketch proposals only and are outside the red line boundary of the application. They were not, therefore, being proposed as part of the application.
- 7.4.16. The auto-track analysis indicated on the Drawing No. 1.0 is of particular interest in that it is so limited. It illustrates the left in/left out flow only. A more useful, though still incomplete, analysis was presented in the initial application documentation – see Figure 2.2, Traffic and Transport Assessment Report, submitted to the Planning Authority on 4th July, 2016. This illustrates some of the more complex traffic manoeuvres likely to result from the proposed development associated with traffic approaching from Rookery Road. The current junction layout is actually less clearly defined. Other traffic manoeuvres would also be likely to arise, such as exit right back onto Countess Road and exit left followed by an immediate right onto Rookery Road. Linked drop offs/pick ups associated with St. Olivers School, and as referred to by the applicants, would clearly generate such movements. As alluded to earlier all of this would be occurring in the context of a junction that is already required to cater for significant vehicular and pedestrian movements at certain times.
- 7.4.17. I conclusion, I am not satisfied that the proposed development would operate satisfactorily from a traffic perspective.

7.5. Validation Issues

- 7.5.1. The issues raised by the appellants under this heading are summarised at Section 6.1.1 above.

- 7.5.2. Although I would accept that the wording of the public notices (those submitted to the planning authority on 21st June, 2017) is not as clear as it might be I do not consider that it is deficient to such an extent as to undermine the validity of the application. By reference to Articles 17 to 19 of the Regulations notices are only required to provide a brief description of the nature and extent of the development.
- 7.5.3. I accept that the reference to the change of use of 'Bradgate' to residential appears to be at odds with its planning status as established under P.A. Ref. 93/2467, ABP Ref. 63.091650.
- 7.5.4. I do not accept the argument in relation to 'Sallywood' being included for the purposes of the retention element of the development. It is included in relation to the proposed development as a whole.
- 7.5.5. I consider the word 'configuration' as quite appropriate to the proposed new entrance arrangement.
- 7.5.6. I reiterate, therefore, that I do not consider that there is any basis to the arguments advance questioning the validity of the application.
- 7.5.7. I note that the applicants, in responding to the grounds of appeal, question the validity of the appeal on the basis that it is a joint appeal, with one appeal fee, lodged on behalf of parties that previously made two separate observation submissions to the Planning Authority. By reference to Section 37(1) of the Act, and which provides for any person who made submissions or observations on an application to the Planning Authority to make an appeal to the Board, I am satisfied that there is no bar to parties coming together in this way and lodging a single appeal. There is no basis, therefore, to his challenge to the validity of the appeal.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and small scale of the proposed development located within an established 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.

7.7. Other Matters

- 7.7.1. I draw the Board's attention to the fact that the planning authority Planner's Report on this case includes a formal EIA Screening. In my view such a screening exercise (formal EIA determination) is not warranted for a proposed development of such minor significance and has no legal basis. Even if it was to be considered a class of development for EIA purposes, and therefore potentially a sub-threshold development, the de minimus scenario as expressly provided for under Article 109(2) Planning and Development Regulations would apply.

8.0 Recommendation

- 8.1. I recommend that permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The site of the proposed development is located in an area subject to the zoning objective 'Existing Residential' in the current Killarney Town Development Plan and where the objective is to provide for and improve residential amenities. While the zoning objective also allows for the provision of childcare facilities, it is considered that the proposed development of such a large scale facility, catering for up to 66 children over two sessions per day, would seriously injure the amenities of residential property in the vicinity by reason of excessive noise disturbance, on-street parking and traffic generation. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the subject site on the heavily trafficked (both vehicular and pedestrian) Countess Road/Rookery Road junction and the significant deficiency in the provision of car parking, it is considered that the proposed development would generate conflicting traffic movements and on-street parking and thereby endanger public safety by reason of traffic hazard and obstruction of road users. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Brendan Wyse,
Assistant Director of Planning.

13 December, 2017.