



An
Bord
Pleanála

Inspector's Report ABP-300607-18

Development	Change of use of existing three-storey crèche to 2 no. two-bedroom apartments
Location	18 & 20, Bracken Park Drive, Bracken Park, formally Garryknock & Sunday's Well, Carpenterstown Road, Castleknock, Dublin15.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW17A/0174
Applicant(s)	Cosgrove Property Development Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Cosgrove Property Development Ltd.
Observer(s)	None
Date of Site Inspection	9 th May 2018.
Inspector	Patricia Calleary

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1.0 Site Location and Description

- 1.1. The appeal site is located within a newly developed residential area, known as Bracken Park, located to the west of Castleknock village in Dublin 15. It is located c. 1km south of Blanchardstown village and c. 0.8km east of Carpenterstown neighbourhood centre. The M50 lies 170m to the east and Coolmine train station is located c.1km to the north west. Access to the site is off Carpenterstown Road, c.80m to the south.
- 1.2. The overall residential development has been built out on a site measuring c.4.8 ha and the appeal site with a stated area of 0.05 ha comprises a three-storey building and associated gardens and parking, with a similar design and layout to that of the adjoining blocks of semi-detached houses. The building has a stated gross floor area (GFA) of 476 sq.m and was originally granted permission as a crèche. The site also comprises a secondary plot laid out for car parking, to the east of the estate road fronting the building.

2.0 Proposed Development

- 2.1. The proposed development would comprise the change of use of the existing three storey (vacant) crèche facility within the residential scheme (Bracken Park Drive), to provide for two 3-storey semi-detached dwellinghouses and the omission of the previously permitted crèche facility.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission for one reason, which set out that the proposed development would create an unsustainable and poorly integrated community, would materially contravene objectives PM34, PM74 and PM75 of the Fingal Development Plan and would be contrary to the following:

- Section 4.5 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.
- Childcare Facilities: Guidelines for the Planning Authorities.
- Circular Letter PL3/2016 (Childcare facilities operating under the Early Childhood Care Education (ECCE) scheme).

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the Planning Officer reflects the decision of the Planning Authority.

The Planning Officer noted the following:

- The development would result in no childcare facility within the overall site of Bracken Park, which would lie contrary to Objective PM34 (locate compatible land uses close together) and Objectives PM74 and PM75 of the Fingal Development Plan.
- Minimal external alterations would result.
- Notes the reports on file from Water Services and from Irish Water (no objections).
- Applicant has not justified that there is no need for a childcare facility.

3.2.2. Other Technical Reports

- Water Services: No objection.
- Transportation: No objection subject to a stated condition (disabled parking).
- Fingal Childcare Committee: Correspondence received which details the significant growth in Fingal's population over a sustained period. The correspondence also provided 2016 /2017 enrolment figures for Electoral Districts including Castleknock-Knockmaroon ED.

3.3. **Prescribed Bodies**

- Irish Water: No objection subject to conditions

3.4. Third Party Observations

- None

4.0 Planning History

4.1.1. There were multiple planning applications lodged on lands containing the appeal site, which collectively resulted in planning permission for 148 no. dwellinghouses and a crèche facility. The details are outlined in the planning officer's report and those most relevant to the current appeal are summarised below.

- PL06F.221463/F06A/1109: Permission was **granted** (29th September 2007) for a residential development and a crèche facility.
- F06A/109/E2: Permission was **granted** (31st May 2012) for an extension of duration of permission for 5 years.
- FW15A/0170: Permission was **refused** (18th Feb 2016) for development comprising revisions to development previously permitted under F06A/1109/E2. The proposed development would comprise the change of use of the three-storey crèche facility to 2 no. three-storey houses.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Fingal Development Plan 2017-2023 is the statutory development plan for the area. The site is zoned 'RS' to 'provide for residential development and protect and improve residential amenity'. The following objectives are considered relevant:

- Objective PM34 – Locate different types of compatible land uses close together.
- 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 PM76 – Require as part of planning for new residential and commercial developments that provision be made for appropriate purpose built childcare facilities where such facilities are deemed necessary by the Planning Authority.

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 proactive role by Planning Authorities in the promotion of increased childcare provision, whilst protecting amenities. Section 2.4 provides that ‘for new housing areas, an average of one childcare facility for each 75 dwellings would be appropriate’.
- 5.2.2. **Circular PL3/2016 (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.
- 5.2.3. The **Childcare (Pre-School Services) Regulations 2006** set out standards for operation of childcare facilities and Tusla is responsible for ensuring compliance with these Regulations.
- 5.2.4. **Guidelines for Planning Authorities on Sustainable Residential Development for Urban Areas (Cities, Towns and Villages) May 2009** sets out the following under Section 4.5:
- ‘When considering planning applications, in the case of larger housing schemes, the guidelines recommend the provision of one childcare facility (equivalent to a minimum of 20 child places) for every 75 dwelling units. However, the threshold for such provision should be established having regard to the existing geographical distribution of childcare facilities and the

emerging demographic profile of areas, in consultation with city/county childcare committees’.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal was received from Stephen Little & Associates. The appeal was accompanied by a letter and marketing brochure prepared by Hooke & MacDonald Auctioneers. The principal points put forward in the grounds of appeal are summarised as follows:

- The crèche facility is not commercially viable following a 3.5-year marketing period seeking an occupier.
- Existing layout does not meet the current requirements for childcare facilities as out in the Childcare (Pre-school) Services (No.2) Regulations 2006.
- Proposed development would result in a sustainable use by bringing a vacant building back into use.
- Development would comply with Development Plan standards.
- There is a reduced need for childcare facilities in the area, due to the slowing population growth levels and the reduction in population in the 0 to 4 years age cohort.
- Based on an assessment by Hooke & MacDonald Auctioneers, there are 22 – 23 childcare spaces available as of January 2018 and 7-10 in October 2017, in the area proximate to Bracken Park.
- Examples of change of use applications are put forward as precedents including: PL29S.242556 (Dublin City Council ref: 2971/13) and PL27.242246 (Wicklow County Council ref: 13/8104).
- Development Management Standards can be sufficiently met as part of the ‘change of use’ proposal.
- The absence of any third-party submission is notable given that the crèche facility is intended to serve the needs of the residents.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response to the appeal can be summarised as follows:

- Based on the information provided within Section 12.3.2 of the planning assessment report submitted by the applicant with the application, the number of children in the 0-4 age cohort increased from 2006 to 2016 by 69 children.
- Enrolment figures for the Castleknock-Knockmaroon ED in September 2016, January 2017 and April 2007 would not be just a decrease for this area only as September would naturally have the highest enrolment rate, being the start of the academic year.
- Extension of ECCE scheme (extending from one year to two years for all children) has resulted in a higher demand on childcare facility places.
- Refers to letter from Fingal Childcare Committee dated the 22nd November 2017, which refers to Central Statistics Office (CSO) statistics and which states that demand for ECCE places may exceed supply in the period September 2016-April 2017.
- The childcare facility was permitted as part of an overall scheme for 148 residential dwellinghouses and would be supported by planning policy.
- Permitting the development would contravene Objective PM34 of the Development Plan.

6.3. Observations

- None

7.0 Assessment

7.1. Introduction

7.1.1. This appeal centres upon an application for permission for the change of use of a permitted crèche facility to 2 no. three-storey houses within a newly developed residential area. The Planning Authority issued a decision to refuse permission for one reason, which set out that the proposed development would create an

unsustainable and poorly integrated community, would materially contravene objectives PM34, PM74 and PM75 of the Fingal Development Plan 2017-2023 and would be contrary to national planning policy for sustainable residential development, childcare facilities and Circular Letter PL3/2016 - Childcare facilities operating under the Early Childhood Care Education (ECCE) scheme.

7.1.2. The appeal against the Planning Authority's decision asserts that the development would be appropriate. In support of their appeal, it is contended that the crèche facility is not commercially viable and that the existing layout does not meet the current requirements for Childcare facilities as out in the Childcare (pre-school) services (No.2) regulations 2006. Central to the grounds of appeal is the appellant's assertion that there is a reduced need for childcare facilities in the area due a decrease in population growth levels in the census period from 2001 and 2016 in both Fingal and in the Castleknock-Knockmaroon Ed within which the crèche is situated. It is also asserted by the appellants that there is a fall in the population levels in the 0 to 4 years age cohort in the Castleknock-Knockmaroon Ed.

7.1.3. Having regard to the appeal case, the relevant planning issue which arises is whether the principle of the change of use from the permitted crèche facility to residential use would be in accordance with the proper planning and sustainable development of the area and I proceed with my assessment below under the heading 'principle and planning policy'. I also consider the matter of appropriate assessment.

7.2. Principle and Planning Policy

7.2.1. The appeal site lies within an area that is zoned 'RS', which seeks to 'provide for residential development and protect and improve residential amenity'. The development of two dwellinghouses would by itself be normally acceptable in principle. However, the policy support for childcare facilities to serve new residential areas needs consideration in the current appeal assessment. Objective PM76 is particularly relevant and requires that as part of planning for new residential and commercial developments, provision should be made for appropriate purpose-built childcare facilities, where such facilities are deemed necessary by the Planning Authority. This was clearly provided for as part of the overall permission for the

residential development where 148 residential units were permitted and have since been built in the Bracken Park developments.

7.2.2. I am satisfied, having regard to local planning and national policy that a development which contains more than 75 dwellings should provide a crèche unit unless there is a reasonable justification to remove the provision. The first party's arguments are therefore considered below.

7.2.3. Enrolment figures in the Castleknock-Knockmaroon ED as provided in correspondence from the Fingal County Childcare committee are presented in the appeal. These include: September 2016 (433), January 2017 (114) and April 2017 (76). The argument that the enrolment is decreasing is set out as following a declining demographic in the 0-4 age cohort. I do not accept that the enrolment figures are comparable such as would indicate an overall decrease. In the first instance and as stated in the appeal, the revised ECCE scheme was implemented in 2016 resulting in a large number of children registered in 2016. Enrolments within the same 12-month period cannot be considered a comparison of like with like and it is a fact that the larger enrolment occurs in September which co-indices with the start of the school year. The point is also made by the appellant that the population generally and in the 0-4 age cohort has decreased in the last two census periods in the Castleknock-Knockmaroon ED. However, the figures presented in the planning assessment report which accompanied the planning application do not align with this point. The table includes figures for the 0-4 age cohort in the Castleknock-Knockmaroon ED for the three latest census periods as follows: 2006 (1,506 persons), 2011 (1,614 persons) and 2016 (1,575 persons), which shows that while there was a drop in this population category between 2006 and 2011, there was an overall increase in the population in the 0-4 cohort by 69 children over the 2006-2016 period.

7.2.4. It is stated that the crèche has been marketed for 3.5 years and as set out in the planner's report, the property was marketed for €1.5 million. In addition, it is stated that the current layout does not meet the requirement of crèche providers. The issues which are stated to have been noted by a potential operator are set out on page 10 of the appeal report and include what I consider to be minor issues. In relation to the stated requirement for a lift within the building, I am satisfied by reference to Section 1.3.4.1.1 (Lifts) of Technical Guidance Document M:2010 which

provides technical guidance on the requirements of Part M (Access and Use) for building projects under the current building regulations, specifically noting that none of the upper floors exceed 200 m² in net floor area, there is no requirement for a lift within the crèche building. Notwithstanding this, I note that the marketing brochure shows a lift on the floor plans and it is stated that on the brochure that all floors are served by a lift.

- 7.2.5. Part V of Childcare (Pre-School Services) (No 2) Regulations 2006 sets out the requirements for the childcare premises and facilities. During my inspection, I noted that the development was not finished internally and I am satisfied that there appears to be ample room in the building and its surrounding site to meet the requirements of the regulations, including any required minor amendments.
- 7.2.6. Departmental Circular PL3/2016 refers to 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. The contents of the letter from the Fingal Childcare Committee (Nov 2017) to the Planning Authority provides enrolment figures of electoral divisions, with a total enrolment figure of 623 in the ED of the appeal site, Castleknock-Knockmaroon ED, for the period September 2016 to April 2017. The letter also states that the statistics would suggest that the demand for ECCE places in the area may exceed current supply.
- 7.2.7. The childcare committee note that the demand for ECCE places in the Fingal Area (including Castleknock-Knockmaroon) may exceed current supply. This would suggest that there is likely to be a requirement for the facility in this new residential area. Notwithstanding the information provided in the appeal, reasonable justification has not been provided for omitting the crèche facility and leading to a deviation from this requirement.
- 7.2.8. Permission was granted on the site for 148 no. residential units consisting of semi-detached houses, apartments and the crèche facility. The crèche facility was to be provided based on a residential scheme of 75 dwellings, as set out under the provisions of the 'Childcare Facilities, Guidelines for Planning Authorities', June 2001. The development of the crèche facility is also supported by Objectives PM74, PM75 and PM76 of the current Fingal Development Plan. If the proposed

development subject of this appeal were permitted, it would result in an absence of a childcare facility serving the newly developed residential area, which would be contrary to local and national policy, would, in the absence of this key social infrastructure, result in a poorly-integrated new residential community and would be contrary to the proper planning and development for the area. Accordingly, the development for which permission is now sought should be refused.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the minor nature of the proposed development, the existing development on site, the location 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.

8.0 **Recommendation**

- 8.1. I recommend that permission is **refused** based on the following reasons and considerations.

9.0 **Reasons and Considerations**

- 9.1.1. Permission was previously granted on lands containing the appeal site for 148 no. residential units and a crèche facility. The crèche facility was to be provided as part of the social infrastructure on the basis of the residential scheme including more than the 75-dwelling threshold, as set out under the provisions of the Childcare Facilities, Guidelines for Planning Authorities, June 2001. The development of the crèche facility is supported by Objectives PM74, PM75 and PM76 of the current Fingal Development Plan, Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (May 2009) and Circular Letter PL3/2016 (March 2016) regarding Childcare Facilities operating under the Early Childhood Care Education (ECCE) Scheme (Planning System support for childcare post September 2016 – Implementation of the Childcare Facility Guidelines for Planning Authorities 2001). The proposed development would result in an absence of a planned crèche facility to serve the new residential development. This would result in a poorly-integrated new

residential community, which would not be supported by local or national policy and accordingly would be contrary to the proper planning and development for the area.

Patricia Calleary
Senior Planning Inspector

14th May 2018