



An
Bord
Pleanála

Inspector's Report ABP-301728-18.

Development	Change of use from permitted creche (reg ref SD14A/0180) to proposed residential use, in the form of 2 2-bedroom apartments (177m ²) accommodated in an existing 2 storey building on a site area of 0.023ha.
Location	Dodderbrook, Old Court Road, Firhouse, Dublin 24.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD18A/0080.
Applicant(s)	Capami Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant(s)	Campami Limited.
Observer(s)	One.
Date of Site Inspection	11/07/2018.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located to west of the built up area of the greater Dublin area and lies within an existing, and recently constructed residential development. The Dodderbrook residential development is located off the Oldcourt Road and comprises 138 residential units, including a mix of detached, semi-detached, terraced houses and apartments. Planning permission has been granted for the construction of Phase 2 of Dodderbrook, SD17A/0121 refers, which will result in a development of 270 residential units.
- 1.2. On the approach roads to the Dodderbrook residential estate, there are a variety of house types, including single storey detached cottages at Oldcourt Cottages to the north west as well as other more recent residential estates. The site the subject of this appeal, comprises a two storey building which has been laid out as 2 apartments, one on each floor and each with their own front door.

2.0 Proposed Development

- 2.1. Permission is sought to change the use of from permitted creche (under Reg Ref SD14A/0180) to proposed residential use, in the form of 2 no. 2 bedroom apartments (177m²) accommodated in an existing 2 storey building, within a permitted residential development known as Dodderbrook, located south of Oldcourt Road, Oldcourt, Firhouse, D24 on a site area of 0.023ha
- 2.2. The proposed development will provide for 2 apartments each with a floor area of 88.5m². The Board will note that the internal layout of the existing structure appears to be in line with the layout proposed in this application, and not as the creche as required in the parent permission.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the proposed development for the following reason:

1. The proposed development would result in a lack of provisions of creche facilities in the emerging large housing development of Dodderbrook. The proposed development would also contravene Government Guidelines on creches contained in the Childcare Facilities Guidelines (2001) and would materially contravene Conditions 1 and 33 of permission SD14A/0180 and would be contrary to the proper planning and sustainable development of the area. The incorporation of a creche facility was a key part of planning permission SD14A/0180.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officers report formed the basis for the planning authority decision to refuse permission for the development. The report notes the conditions attached to the previous grant of permission for the wider estate and concludes that if permitted, the development would materially contravene conditions 1 and 33 of SD14A/0180, and would be contrary to the proper planning and sustainable development of the area. The report notes that the incorporation of a creche facility was a key part of the grant of the original planning permission on the site.

3.2.2. Other Technical Reports:

SDCC Water Services Section: No objection subject to conditions.

Roads Section: No objection subject to conditions

Environmental Health Officer: No objection subject to conditions.

3.2.3. External Reports:

Irish Water: No objections.

3.3. Objections / Third Parties

There are 15 third party objections to the proposed change of use noted on the planning authority file. The issues raised are summarised as follows:

- There is an immediate need for childcare in the estate. The proposed creche associated with phase 2 will not be available for a number of years.

- The estate was advertised with the intention to build a creche. While it is the applicants right to apply for a change of use, there is every chance this may also happen with the phase 2 creche and the estate would be left without any childcare facility for over 230 houses.
- Issues in relation to car parking and changes to the parking bay layout.
- The demographic of the estate is young families who need childcare facilities.
- The development would lead to employment and reduce traffic congestions as residents could walk to the facility.
- There are waiting times of up to a year for childcare places, if they are available.

4.0 Planning History

ABP Ref. PL06S.244631 (PA Ref. S14A/0180): Permission was granted by the PA for the development of 130 houses, 8 apartments, and all facilities. The appeal was withdrawn prior to a Board Decision. The following conditions were included in this grant of permission:

1. Development to be carried out in accordance with submitted plans.
 - (a) The development shall be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application, as amended by Unsolicited Further Information received on the 19/09/2014 and Further Information received on 28th January, 2015, save as may be required by the other conditions attached hereto.
 - (b)...

Reason: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

33. Creche.

A creche shall be provided in accordance with details submitted on drawing no. D-1406 entitled 'Creche Option'.

Reason: In the interests of proper planning and sustainable development of the area.

The site the subject of this appeal comprises the permitted creche facility as proposed following a request for further information to provide for a minimum of c37 childcare places in accordance with the childcare guidelines.

5.0 Policy Context

5.1. Development Plan

The South Dublin County Development Plan 2016-2022 is the relevant policy document pertaining to the subject site. The site is zoned 'Red N' and the zoning objective seeks 'to provide for new residential communities in accordance with approved "Area Plans" under the County Development Plan 2016-2022.'

In terms of policies relating to the provision of childcare facilities, the Plan states that 'pre-school childcare needs are difficult to assess on a long term basis as the nature of demand evolves over time based on factors such as the population profile of an area, market conditions, government policy and the level of state intervention. Notwithstanding this, there is a recognised need for planned provision in new communities where no infrastructure exists. South Dublin County Council will seek to facilitate the provision of good quality and accessible childcare infrastructure at appropriate locations by combining area-based requirements in new communities with market-led provision in more established areas.' The following policies and objectives are relevant:

Policy C8 (a): It is the policy of the Council to support and facilitate the provision of good quality and accessible childcare facilities at suitable locations in the County.

Policy C8 (b): It is the policy of the Council to require the provision of new childcare facilities in tandem with the delivery of new communities.

C8 Objective 1: To support and facilitate the provision of childcare infrastructure at suitable locations such as town, village, district and local centres, adjacent to school sites and in employment areas.

C8 Objective 2: To require childcare infrastructure to be provided in new communities on a phased basis in tandem with the delivery of residential

development, in accordance with the phasing requirements of Local Area Plans or approved Planning Schemes.

C8 Objective 3: To support the provision of small scale childcare facilities in residential areas subject to appropriate safeguards to protect the amenities of the area, having regard to noise pollution and traffic management.

C8 Objective 4: To support the provision of childcare facilities in community buildings, such as community centres and schools.

5.2. **Ballycullen-Oldcourt Local Area Plan 2014**

5.2.1. The subject site is located within the designated area covered by the LAP. The LAP provides a framework for the development of lands and provides for the provision of 1,600 new residential units in a phased manner as set out in chapter 6 of the LAP. The overriding strategy is to ensure that development, at a wider level, is carried out in an integrated, coherent and universal design led manner that responds to the local context and also accords with relevant national guidelines. The strategy also provides for a phasing of development and the provision of the necessary infrastructure to serve the area.

5.3. **Natural Heritage Designations**

Not relevant given the built nature of the subject site and the lack of any works on virgin land.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The first party has submitted an appeal against the decision of the Planning Authority to refuse permission for the proposed change of use. The appeal document provides an introduction to the application and details the planning and site context. The grounds of appeal are summarised as follows:

- Under permitted phase 2 of Dodderbrook, it is proposed to provide a 2 storey creche of 423m². This facility will provide an adequate number of childcare places to satisfy both phases.
- The Phase 1 creche is too small to be economically viable and it has been difficult to find an operator.
- It is not premature to permit the change of use of the creche as Phase 2 of Dodderbrook is due start construction and the creche will be completed by May 2019.
- The developer has a long standing record of delivering residential developments and it is requested that the Board consider the size of the two creches and the fact that a genuine effort has been made to cater for the childcare needs of Dodderbrook.
- The proposed development does not contravene Government Guidelines and the permitted Phase 2 creche will accommodate 80 children. The requirement across Phase 1 and 2 will be 72 childcare spaces.
- The site is suitable for residential use and will not impact on existing residential amenity, visual amenity, car parking or services.
- It is requested that permission be granted for the proposed change of use.

6.2. **Planning Authority Response**

The PA has responded to this appeal, confirming its decision. It is submitted that the issues raised in the appeal have been covered in the planners report.

6.3. **Observations**

There is one observation noted which has been submitted on behalf of 8 local residents. The issues raised in the observation reflect those submitted during the PAs assessment of the proposed development and are summarised as follows:

- The creche was advertised as part of Phase 1 of the development when current residents were buying and was a main selling point.
- The demographic of the estate is young couples and families.

- There is a lack of childcare facilities in the area with waiting lists of 18 months in places.
- As a community, it is refuted that the phase 1 facility is not needed.
- The level of residential development in the vicinity will put increased demand and competition for childcare places in the area.
- The appellant has altered the parking bay layout from originally proposed and has omitted 14 landscaping bays to the terrace leaving the street devoid of trees.

It is requested that permission be refused.

7.0 Assessment

7.1. Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted, and proposed development, I suggest that it is appropriate to assess the proposed development under the following headings:

- The principle of the development and Planning History
- Other Issues
- Appropriate Assessment

7.2. Principle of the development and planning history

7.2.1. The subject site is located within an existing residential development and in an area of South Dublin County Council which has been zoned 'Red N' and the zoning objective seeks 'to provide for new residential communities in accordance with approved "Area Plans" under the County Development Plan 2016-2022.' Therefore, the principle of the proposed development can be considered as being acceptable.

7.2.2. Chapter 3 of the Plan deals with Community Infrastructure and Community Infrastructure (C) Policy 8 – Childcare Facilities is considered relevant. In particular, Policy C8 (a) and Policy C8 (b) are of note in that it is the policy of the Council to support and facilitate the provision of good quality and accessible childcare facilities at suitable locations in the County and to require the provision of new childcare

facilities in tandem with the delivery of new communities. In addition, C8 Objective 2 requires that childcare infrastructure be provided in new communities on a phased basis in tandem with the delivery of residential development, in accordance with the phasing requirements of Local Area Plans or approved Planning Schemes. C8 Objective 3 also seeks to support the provision of small scale childcare facilities in residential areas subject to appropriate safeguards to protect the amenities of the area, having regard to noise pollution and traffic management.

7.2.3. The Board will note that planning permission for the wider estate required the provision of a creche as part of the development. Condition 33 of grant of permission, PA ref SD14A/0180 refers, states as follows:

A creche shall be provided in accordance with details submitted on drawing no. D-1406 entitled 'Creche Option'.

Reason: In the interests of proper planning and sustainable development of the area.

In terms of the proposed development, I consider that a grant of permission would materially contravene this condition.

7.2.4. The Board will note the arguments of the appellant in terms of the above, and indeed I do note that planning permission has been granted for the development of a larger childcare facility as part of Phase 2 of the wider Dodderbrook development. However, C8 Objective 3 of the CDP seeks to support the provision of smaller scale childcare facilities while Objective 2 requires that childcare infrastructure be provided in new communities on a phased basis in tandem with the delivery of residential development. Given that Phase 1 of Dodderbrook has been occupied for at least 2 years, and given the submissions on the file, it would appear that there is a need for the childcare facility as permitted, at the location permitted. The appellant has not provided any evidence to suggest otherwise.

7.2.5. Therefore, I consider that permission should be refused on the grounds that a grant of permission would materially contravene a condition of planning permission, which is both reasonable and necessary.

7.3. Other Issues

7.3.1. The Board will note that the applicant has indicated that the building the subject of this application for change of use has been constructed in accordance with the plans permitted. This is not the case. Through the ground floor windows it is clear that the building has been constructed to accommodate an apartment layout and the second 'front' door is in place as on the proposed drawings, and not as permitted. In this case, the Board may consider that the description of the development is inaccurate.

7.4. Appropriate Assessment

Having regard to the location of the subject site within an established and built up area, together with the nature and scale of the proposed development, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

8.0 Recommendation

8.1. It is recommended that permission be refused for the following stated reason.

9.0 Reasons and Considerations

The proposed development, which seeks a change of use of a permitted creche to residential use, would, if permitted, materially contravene conditions no. 1 and 33 of previous grant of permission, Planning Authority Reference SD14A/0180 refers, which require the provision of a creche in the interest of proper planning and sustainable development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
02nd August, 2018