



An
Bord
Pleanála

Inspector's Report ABP-301998-18

Development	Permission for the change of use from domestic dwelling house to childcare and ancillary rooms.
Location	13 Newlands, Coolcotts, Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20180497
Applicant(s)	Discovery Land Crèche and Montessori
Type of Application	Permission
Planning Authority Decision	To Refuse Permission
Type of Appeal	First Party
Appellant(s)	Discovery Land Crèche and Montessori
Observer(s)	Newlands Residents Association
Date of Site Inspection	12.12.2018
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site with an area of 0.04ha accommodates an existing house (no. 13) with a floor area of 85 sq. metres and is located within an existing mature residential estate known as Newlands. There is an area of hard standing to the front of the dwelling and a small garden to the rear. The site is located at the start of a small cul de sac that serves 11 houses, all of which are single storey and detached. The estate is located to the west of Wexford Town, adjacent to the Wexford Race Course.
- 1.2. Immediately adjacent to the site is no. 14 Newlands which accommodates the Discoveryland childcare facility. On the roadway outside this property, there is a set down area for two cars. There are a further 5 parking spaces (including 1 disabled space) located to the front of the property. The rear garden of this dwelling is used as a play area for the childcare facility.

2.0 Proposed Development

- 2.1. The proposed development comprises the change of use from a domestic dwelling to a childcare facility to accommodate office, staff canteen, sensory room, childcare room and storage room. Minor alterations to external elevations include an entrance porch. The development also provides for an outdoor play space and connection to the existing outdoor space to the rear of no. 14 Newlands as well as for all changes to allow for the improvement of and connection to the existing facilities at the adjacent Discoveryland Childcare Centre (situated at no. 14) and all associated site works to improve and provide an additional 6 no. car parking spaces.
- 2.2. It is stated in the application that the purpose of the application is to improve existing facilities and not to expand the number of children attending the facility. The development specifically will provide for:
 - An increase in the number of off street car parking spaces from 5 to 11 for use by both staff and parents.
 - An increase in the number of set down spaces from 2 to 5.

- New office space.
- A dedicated staff canteen.
- A sensory play room.
- Additional storage.
- An increase in external play areas.

2.3. It is stated that the development will allow for a change in focus in the childcare offering in the existing crèche and allow for a reorganisation of the use of the existing spaces. The Montessori room will be relocated to no. 13.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 To Refuse Permission for 3 no. reasons:

1. *The proposed development, taken in conjunction with existing and permitted development and their associated vehicular traffic would endanger public safety by reason of traffic hazard, have a negative impact on the free flow of traffic and would tend to create serious traffic congestion.*
2. *It is conspired that the proposed development will result in an accumulative effect in conjunction with the same business running from the adjacent property and therefore contrary to traffic safety.*
3. *The site of the proposed development has been developed as a housing estate. The proposed development would intensify demand on existing infrastructural facilities and would therefore be seriously injurious to the residential amenity and contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Report (06.06.2018)

- No alterations are proposed to the building, however the additional car parking, removal of fencing, pavements and advertising has an impact on the visual character of the residential housing estate.
- Consider the traffic survey which accompanies the application is flawed. Traffic congestion was obvious at the time of the site visit with a significant number of cars arriving in and around the same time to pick children up leading to random car parking and creation of a clear traffic hazard.
- The extension to the existing facility would have a negative impact on the residential amenity of the residents in the area.

3.2.2. Other Technical Reports

Chief Fire Officer (15.05.2018): Advices that a Fire Safety Certificate is required.

3.3. Prescribed Bodies

- No observations.

3.4. Third Party Observations

3.4.1 There were a number of third party observations on the application. The issues raised are similar to those raised in the observation on the appeal and related to issues such as traffic impacts and congestion, overspill parking and impacts on residential amenities.

4.0 Planning History

Planning Authority Reference 20170468

- 4.1 Permission refused by Wexford Co. Co. in May 2017 for the retention of the conversion from a domestic dwelling house to office/canteen/Montessori room to meet the needs under Aistear Siolta Guidelines as extended facility of the existing adjacent Discoveryland Crèche facility at 13 Newlands, Coolcotts, Wexford.
- 4.2 Permission was refused on the basis that the development would generate a significant increase in the volume of traffic at this location where there is inadequate car parking and thus result in a traffic hazard and that having regard to the minimum

standards for Childcare facilities set out in the County Development Plan, that insufficient information has been submitted to fully assess the development.

Planning Authority Reference W2013021/Appeal Reference PL85.242030

4.3 Permission granted by the Board in September 2013 to amend Condition no. 2 of the previous permission granted under W2012045. The amendment related to the number of children catered for at one time in line with HSE Childcare recommendations.

4.4 In overturning the Inspector's recommendation to refuse permission, the Bord noted that this was a long established use that has Health Service Executive approval and has expanded over time. While there would be an impact from traffic, they considered that this cul de sac could absorb the short term impact with limited speed applying. Condition 2 of the Boards decision stated:

"The number of children to be accommodated within this childcare facility shall not exceed 43 at any one time.

Reason: In the interest of clarity and residential amenity."

Planning Authority Reference W2012045/Appeal Reference PL85.241038

4.5 Retention permission granted by the Board in January 2013 for improvement works to the existing childcare facility consisting of a 26 sq. metre single storey extension to the rear of existing building, erection of single storey porch, signage and relocation of toilet to purpose built 5.8 sq. m. single storey extension located to the rear of the building. Condition no. 2 stated:

"The number of children to be catered for in this childcare facility at number 14 Newlands, Coolcotts shall be a maximum of 20 children at any one time. Any increase in number of children permitted at this childcare facility will require a new application for planning permission.

Reason: In the interest of clarity and residential amenity."

Planning Authority Reference W2012006

4.6 Permission refused in March 2012 for signage on the grounds of traffic safety.

Planning Authority Reference W2008188

4.7 Permission granted in November 2008 for retention of the change of use of a dwelling house to childcare centre.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the Wexford Town and Environs Development Plan 2009 – 2016 (as extended). The site is zoned residential and is located within Zone 8 Coolcotts/Townparks. Sections 6.1.12 and 11.11.02 of the Plan set out guidance regarding childcare facilities. Section 11.14 addresses car parking requirements.

5.1.2 Policy C16 states:

“The Councils shall facilitate the development of childcare facilities where demand arises subject to satisfying applicable planning and engineering criteria.”

5.1.3 Section 11.11.02 states:

“The Council recognise the need for the provision of properly run and located childcare facilities. Applications for childcare facilities in residential areas will be assessed in terms of the effects of the amenities of adjoining properties and the level of traffic generated.”

5.1.4 Criteria for assessment include the suitability of the site and building, the availability and ease of access, parking and collection points and the impact on local traffic circulation.

5.2 Other Policy

Childcare Facilities – Guidelines for Planning Authorities 2001

5.2.1 Section 3.3.1 of the Guidelines notes that suitable locations for full day facilities include detached houses/sites or substantial semi-detached properties with space for off street parking and/or suitable drop off and collection points for customers and also space for an outdoor area.

5.2.2 The guidance goes on to state that applications for other types of premises including those located on a cul de sac should be treated on their merits having regard to the

principles outlined in relation to parking, drop off points, layout and design of the housing area and the effect on the amenities of adjoining properties.

5.2.3 Section 3.2 of the guidelines sets out the different criteria that should be used for assessing planning applications for childcare facilities.

Circular Letter PL3/2016 – Department Environment, Community and Local Government 2016

5.2.5 This circular notes that with forecasted economic and population growth in conjunction with the extension of the Early Childhood Care and Education (ECCE) Scheme, it is expected that there will be an increased demand for childcare spaces. In line with Government policy to increase access to childcare, it is envisaged that there may be a review of the *Childcare Facilities Guidelines for Planning Authorities 2001*. Planning authorities are requested to expedite, insofar as is possible, consideration of all planning applications in respect of childcare facilities in order to facilitate the expansion of required capacity as appropriate.

5.3 Natural Heritage Designations

5.3.1 The nearest Natura 2000 site is the Wexford Harbour and Slobbs SPA and the Slaney River Valley SAC located c. 0.8km to the north east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The basis and fundamental principle of this application is to improve the facilities provided at the adjacent childcare facility in no. 14 Newlands, including current parking arrangements. There will be no increase in the number of children attending. The development is necessary to comply with regulatory requirements by Tusla including the distance between sleeping cots. It will also provide enhanced, office, storage and staff accommodation as well as a sensory room.
- The Planning Authority have not had due regard to the Traffic Report submitted with the application and have failed to recognise that the application does not

seek to increase the number of children attending the facility. The assessment is based on one site visit and is subjective. The traffic report submitted clearly identifies that there will be no new additional traffic generated and no additional demand for parking spaces. Note that there was no comment on the planning file from the area engineer.

- The crèche encourages sustainable modes of transport. Notes that uses of buses reduces the traffic movements to the crèche.
- The population equivalent of the development improves as it will be spread over two houses, thereby, reducing demand in infrastructure. Parking provision will be doubled. Issues of road maintenance are for the planning authority.
- Refusing the application will deprive families of a better learning experience and staff of the opportunity for a better working experience. The site forms part of a much larger estate and serves 200 houses in the immediate area.
- The policies and objectives of the Wexford County Development Plan are supportive of the need to expand childcare provision.

6.2. Planning Authority Response

- No response received.

6.3. Observations

Newlands Residents Association

- State that the planning application was invalid and that the appeal should be dismissed. An application for retention should be sought. Note that there is a history of unauthorised development on the subject site.
- Consider the crèche constitutes an inappropriate form of development and is overdevelopment due to the intensity of use. Note that the existing estate accommodates 45 houses and provides a service to 43 children. The area within which the crèche is located is anticipated to have low population growth. There is no necessity for a larger crèche facility at this location.

- No adequate justification provided to enlarge the subject crèche. Consider that the crèche is poorly located relative to the wider housing estates and employment in the area. It will be predominantly accessed by car. The development will have a negative impact on the residential amenities of the estate.
- The development will create a traffic hazard due to increased traffic volumes, additional on street parking and increased vehicle manoeuvres in the vicinity of the crèche. Traffic and Transport Assessment submitted. Notes that the crèche is creating significantly higher traffic volumes than if the estate was solely residential in character and that the development will exacerbate this. States that development is utilising on street parking which inconveniences local residents and restricts access by emergency vehicles. Considers that activity at the existing crèche has resulted in a deterioration of the road surface. Claims by the applicant that on street parking is of benefit as it calms traffic is disingenuous.
- If the Board grant permission, than capacity should be limited to 43 children and 9 staff in total during the operational hours of the crèche in light of condition 2 imposed under PL85.242030.

6.4. Further Responses

- There is a genuine need for this longstanding service and business to provide and improve the facilities it offers to both staff and children.
- The development does not seek to increase the permitted number of children attending the crèche and, therefore, would not result in an increase in traffic visiting the crèche. Additional off street and set down spaces will be provided which would improve the existing situation.
- The current crèche at no. 14 has operated since 2007. The application relates to no. 13, where there is a planning history for childcare services dating back to 1989.

- With regard to population, notes that as with any childcare facility in a residential estate, it initially serves the children of the estate, then as the age profile of the estate evolves, a wider catchment applies.
- Notes that a number of new regulations are now applicable to the existing crèche including the Child Care Regulations (The Child Care Act 1991) (Early Years Services) (Amendments) Regulations 2016. The application is a genuine need to improve the facilities in line with modern Regulations and there is no intention to intensify the use on the site.
- State that the alleged unauthorised use was not considered an issue when the application was validated by the Planning Authority. There is no usage as a crèche providing early years service on the site. Consider comments regarding the planning history of the site as irrelevant and that the applicants are entitled to make a planning application for retention.
- The service has grown organically at this location. Consider that the existing facility does not have adverse impacts. The majority of pupils live within a 5 minute drive time catchment and a number of children arrive by foot and public transport.
- Notes that property price register indicates that a number of properties have been sold in the estate in recent years. Comments regarding damage to parked cars and property values are sensationalist.
- The decision on the appropriate numbers attending the crèche is within the remit of Tusla. Childcare Regulations, areas per child and staff numbers are continually evolving. Even allowing that the future plans of the crèche change to suit future regulations or demand of workforce, any increase would be insignificant.
- States that the traffic report submitted with the application is based on a traffic survey. Consider the report submitted by the observers is inaccurate and based on a one off site inspection. Notes a number of inconsistencies in the report. State that any existing road safety hazard is caused by the crèche not being permitted to use the spaces outside of no. 13. The surrounding road network including junction capacity is more than adequate to accommodate the development.

7.0 **Assessment**

7.1 **Introduction**

7.1.1 The main issues are those raised in the grounds of appeal and observation and it is considered that no other substantive issues arise. The issues can be dealt with under the following headings:

- Procedural.
- Principle of Development.
- Traffic and Access.
- Appropriate Assessment.
- EIA Screening.

7.2 **Procedural**

7.2.1 Concerns have been raised by the observers that an application for retention permission should have been sought in relation to the subject site. It is noted that there appears to be a dispute between the applicant and the observers regarding the use of the property, and that whilst it was temporarily used as ancillary accommodation and an afterschool associated with the existing childcare facility, this use has now ceased. It was observed on site that the property is not in active use as a Montessori or childcare facility.

7.2.3 The Planning Authority considered the application to be valid and having regard to the fact that the property does not appear to be in active childcare use, I am satisfied that the development description is accurate.

7.3 **Principle of Development**

7.3.1 The current crèche facility has been insitu since approximately 2008. It is detailed by the applicant that it is now necessary to expand the facility's operations into the adjacent residential property in order to comply with various regulatory requirements. It is stated that the development will provide primarily ancillary accommodation

including staff, storage and office accommodation. The layout plan indicates that it will also accommodate a sensory room for children with special needs as well as an additional childcare room. It is detailed by the applicant that existing accommodation at the adjacent facility (no. 14) will be re-configured and will include an enlargement of the existing sleeping accommodation. This will necessitate the relocation of the Montessori facility to no. 13.

7.3.2 Current occupancy of the existing crèche is limited to 43 children at any one time. This condition was imposed by the Board under appeal reference PL85.242030. It is argued by the applicant that the proposed development will not result in any increase in children at the facility.

7.3.4 The applicant's comments regarding intensification are noted. The conversion of a second dwelling house will effectively double the extent of commercial floorspace dedicated to the crèche use, however, the number of children attending the enlarged facility will remain the same. It was observed on site that the existing facility is very constrained. There were approximately 38 children in attendance during the site visit, and the facility would benefit from expansion to provide enhanced amenities for both children attending and staff. I am satisfied that the intent of the applicant to expand into the adjacent property is a bona fide response to new regulatory standards and specific requirements for childcare facilities. The development, will in my view, significantly improve an established facility at this location that provides a valuable childcare facility to the wider community. I am satisfied that whilst the existing facility will be enhanced, the use and occupancy will not be intensified. This matter can be reinforced by way of condition.

7.3.5 The comments of the observers that there is no need for a larger facility are noted. The premise of this submission is based on their opinion that the development will significantly expand the current operations of the childcare facility. I am satisfied however, that this is not the case, and occupancy is controlled. The facility is well established at this location and there is clearly a need and demand for the service.

7.3.6 The Childcare Facilities – Guidelines for Planning Authorities 2001 note that particular attention should be given to applications for childcare facilities located in cul de sacs with regard to parking, drop off points, layout and design of the housing area and the effect on the amenities of adjoining properties. The existing cul de

serves 11 houses and the subject site is one of 4 houses located on the southern side of the road. Both dwellings are located at the start of the cul de sac which enhances their accessibility. Furthermore, both properties have an existing area of hard standing to the front. In this regard, there is sufficient space for off street parking and drop off areas. There is a large area of open space to the east of the dwelling and the rear boundary backs onto a cul de sac turning area. In this context, having regard to the location of the development, it will not have a material adverse impact on the amenities of adjoining properties.

7.3.6 In conclusion, I am satisfied that the proposed development will allow for the expansion and improvement of the existing childcare facility without a material intensification of its occupancy. I am satisfied that this is a long established use at this location and that the development is appropriate in terms of accessibility, parking and availability of set down areas. The principle of the development is, therefore, acceptable.

7.4 Traffic and Access

7.4.1 The reasons for refusal stated by the Planning Authority primarily relate to traffic matters and concerns that the development would constitute a traffic hazard. A Traffic Impact Assessment is submitted by the applicant and it is argued that the development will have a negligible impact on existing traffic volumes and road capacity. It is also detailed that the additional car parking spaces represent a significant improvement in the existing situation.

7.4.2 The condition attached under Appeal Reference PL85.242030 restricts the maximum number of children attending the existing crèche at any one time to 43. As noted above, 38 children were observed on site during the site visit. The current proposal would significantly enhance and increase the accommodation available for childcare purposes, including the provision of an additional childcare room which would be used for the relocated Montessori School. The overall capacity of the facility will not be increased.

7.4.3 It is evident from the submissions made by local residents and observations from the Planning Officer of Wexford County Council, that the facility does generate increased traffic during peak pick up and drop off times with consequent implications for traffic volumes and movements as well as parking and congestion problems. However, as

detailed by the applicant, these issues are associated with the existing facility and will continue irrespective of the proposed development. It is submitted that the proposed development will in fact enhance parking and drop off areas and resolve many of the conflicts as an additional 6 off street car parking spaces will be provided as well as additional set down parking (3 spaces). The combined facility will provide 11 off street spaces and 5 set down spaces.

7.4.4 Having reviewed the traffic reports submitted by the applicant and the appellant, I am satisfied that whilst the development generates a higher volume of traffic than would be generated by a residential development, there is capacity within the wider road traffic network to absorb and accommodate the development. As occupancy of the facility is controlled by condition, I am satisfied that the development will not generate any additional traffic movements. Furthermore, I am satisfied that the development, through the provision of additional off street and set down parking will in fact improve the existing situation and help resolve some of the congestion that currently exists. I am satisfied, therefore, that the proposed development would not exacerbate existing parking and congestion problems in the cul de sac.

7.5 **Appropriate Assessment**

7.5.1 Having regard to the nature and scale of the proposed development, the change of use of an existing dwelling to a childcare facility, and the distance to the nearest European site, 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.

7.6 **EIA Screening**

7.6.1 Having regard to nature of the development comprising the change of use of a dwelling to a childcare facility and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1 Having regard to the nature and extent of the proposed development, it is considered, that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Reasons and Considerations

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The number of children to be accommodated within the premises (no. 13) and at the adjacent childcare facility at no. 14 Newlands shall not exceed 43 number at any time on any day or 43 number in any session in both properties.

Reason: To limit the development in the interest of residential amenity.

3. The proposed childcare facility shall not operate outside the period of 0730 to 1830 hours Monday to Friday inclusive, and shall not operate on Saturdays, Sundays or public holidays.

Reason: In the interest of residential amenity.

4. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other

projecting elements shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess any such further signage or advertisements through the statutory planning process.

5. A plan containing details for the management of waste/recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste/recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste/recyclable materials in the interest of protecting the environment.

Erika Casey

Senior Planning Inspector

13th December 2018