



An
Bord
Pleanála

Inspector's Report ABP-302147-18

Development	Erection of a timber log cabin (c. 32sq.m) extension to the existing sessional Montessori for the use of 11 children.
Location	Sea Road, Malahide, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F18A/0223
Applicant(s)	Caroline Gouldsbury
Type of Application	Permission.
Planning Authority Decision	To grant permission with conditions.
Type of Appeal	Third Party
Appellant(s)	Peter Prior and others.
Observer(s)	None
Date of Site Inspection	17 th November 2018.
Inspector	Rachel Kenny

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. National.....	6
5.2. Fingal County Development Plan 2017 to 2023	7
5.4. Natural Heritage Designations	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	9
6.3. Planning Authority Response	10
6.4. Observations/Further Responses.....	10
7.0 Assessment	10
7.2. Consistency with Zoning and Policies in Respect of Childcare Facilities. ...	11
7.3. Impact on traffic.....	12
7.4. Historical significance of the site.	12
7.5. Impact on amenity of the adjoining property	13
7.6. Noise and disturbance.	13
7.7. Appropriate Assessment Screening.....	13

8.0 Screening for Environmental Impact Assessment 14

9.0 Recommendation..... 14

10.0 Reasons and Considerations..... 15

1.0 Site Location and Description

- 1.1. The appeal site is situated in Malahide, to the north of Old Yellow Walls Road and fronting on to Sea Road adjacent to a residential estate known as The Cove to the south and west. The site contains an existing single storey montessori building with a gross floor area of 96.9m² (net FA of 82.2 m²) and a small monumental cross. The appellant's property adjoins the appeal site to the west at No 23, The Cove, Malahide.
- 1.2. Vehicular access to the site for staff is from Sea Road to the east with parking provision for 2 car spaces. There is a gated pedestrian link connecting the site to The Cove to the west which provides access for children from a set down area. A primary school (Pope John Paul II National School) is situated to the north east of the site. The location of the proposed development was formerly a graveyard and latterly a Band Cabin.

2.0 Proposed Development

- 2.1. The proposed development is for the construction of a single storey timber log cabin to allow for the extension of the existing sessional Montessori, with an additional capacity for 11 no. children. Opening hours are 9.00am to 12.30pm. Water supply and waste management are proposed via connection to the existing public supply/sewer respectively.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 26th June 2018, the planning authority decided to grant permission for the development subject to 12 conditions. Most are standard and the remainder are as follows:
 - No. 2 – Restricts operating hours to 9am to 12.30 pm Mondays to Fridays.
 - No. 3 –the proposed play area and associated fencing to be relocated to the west of the monument

- No. 6 – Requires that vehicular activity within the site is restricted to staff car parking only.
- No. 9 – Requires compliance with the requirements of the Environmental Health Officer within three months of the date of the grant of retention permission.
- No. 11 – Controls the construction hours.
- No. 12 – Requires payment of a development contribution.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- 25th June 2018 - Refers to the planning history of the appeal site and nearby sites, the zoning of the site, relevant planning policies, objections and submissions and departmental reports. It refers to a report by Transportation Planning and states that there were no objections to the development, subject to condition. It assesses the application under a number of headings, including principle of use, residential impact, visual impact, transportation, water services, archaeology, historical context and appropriate assessment. It considers that the development, due to its limited size and nature and the planning history is considered to be consistent with the policies and objectives of the current Fingal County Development Plan, would not result in a significant negative impact on existing residential amenity or result in traffic hazard, and would integrate appropriately with surrounding development. The report therefore recommends that permission is granted for the development.

3.2.2. Other Technical Reports

- Water services – No objections subject to conditions.
- Transportation Planning – No objections subject to conditions.
- EHO – No objections subject to conditions.
- Community Archaeologist – No objections subject to conditions.

3.3. **Prescribed Bodies**

- Irish Water – No objection.

3.4. Third Party Observations

3.4.1. There were a number observations on file, including one by the appellant (the owners of the property opposite the pedestrian access and set down area to the appeal site at no. 23 The Cove). Similar matters are raised in submissions, as follows:

- Over-intensification of site is considered unacceptable.
- Zoning – doesn't accord with Objective DMS94
- Design not in keeping with historical graveyard.
- Traffic from National School and Montessori often overlap
- Concern that there may be considerable increase in noise and nuisance levels.
- Application ignores historical and environmental significance of the site.
- Concerns about hours of operation.
- Procedural issues relating to previous permission (F12A/0100).

4.0 Planning History

- PA ref. F12A/0100– Permission granted for a change of use of community hall to sessional Montessori for twenty children. Opening hours 9 am to 12.30pm. (Appeal site).
- PA ref. 10A/0467 –. Permission granted for a double storey extension to no. 2 The Cove.
- PA ref. F14A/0395 - Permission granted for a single storey extension to Pope John Paul II National School.

5.0 Policy Context

5.1. National

- Childcare Facilities: Guidelines for Planning Authorities (DEHLG, 2001) – This document provides a framework to guide local authorities and childcare

providers in assessing and formulating development proposals respectively. The Guidelines identify any residential areas as an appropriate location for sessional/after-school childcare facilities and set out criteria to be applied in the assessment of the suitability of childcare facilities (section 3.2), including suitability of the site for the type and size of facility proposed, availability of outdoor play area, convenience to public transport nodes, safe access and convenient parking for customers and staff, local traffic conditions, number of facilities in the area and interned hours of operation. In section 3.4.1 the Guidelines state that applications for a change of use to childcare facilities in an existing residential area, should require some residential content to be maintained in the premises on the grounds that totally commercial premises would detract from the amenity of residential community.

- Circular PL3/16 – Requires that the childcare facility standards set out in Appendix 1 of the above guidelines, including the minimum floor area requirement per child, are excluded from consideration, given the role of Tusla in ensuring compliance with the Child Care (Pre-School Services) Regulations, 2006 (which were published subsequent to the Departments Guidelines, above).

5.2. Fingal County Development Plan 2017 to 2023

- 5.2.1. The appeal site is zoned 'RS', Residential, the objective of which is to '*Provide for residential development and protect and improve residential amenity*'. Childcare uses are permitted in principle within the zone. There is an objective for the specific provision of an "Indicative Cycle / Pedestrian Route" to the south east of the appeal site.
- 5.2.2. The current County Development Plan refers to the importance of the provision of childcare facilities to enable parents to participate in the workforce, avail of training and for child development. It recognises the lack of affordable, accessible community based childcare facilities in the county and policies of the Plan, therefore:
- Encourage the provision of childcare facilities in appropriate locations, including residential areas, town and local centres, areas of employment and close to public transport nodes (PM74),

- Ensure the childcare facilities are accommodated in appropriate premises, suitably located and with sufficient open space in accordance with the Childcare Regulations (PM75), and
- Provide suitable high-quality facilities, with regard to:
 - The suitability of the site for the type and size of facility proposed,
 - Adequate sleeping/rest facilities,
 - Adequate availability of indoor and outdoor play space,
 - Convenience to public transport nodes,
 - Safe access and convenient off-street parking and/or suitable drop-off and collection points for customers and staff,
 - Local traffic conditions, and
 - Intended opening hours.

5.3. Under Childcare Facilities, page 442, the Plan states that '*Applications for childcare facilities in existing residential areas will be treated on their own merits, having regard to the likely effect on the amenities of adjoining properties, and compliance with the above criteria. Detached houses or substantial semi-detached properties are most suitable for the provision of full day care facilities*'. Policy DMS95 states that residential properties with childcare shall retain a substantial residential component within the dwelling and shall be occupied by the operator of the childcare facility.

5.4. **Natural Heritage Designations**

5.5. Approximately 35m to the north of the appeal site lies the Malahide Estuary SAC (site code 000205).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The appeal is made by the owners of No. 2 The Cove which lies immediately west of the appeal site. Grounds of appeal are similar to the matters raised in observations (summarised above).

- Procedural issues with 2012 planning permission including significant further information not re advertised. Specifically, a new pedestrian access from the Cove Estate. Use of public open space for access to Montessori. New public right of way established without consent in 2012.
- Contrary to Childcare Guidelines: Doesn't accord with Objective DMS94. Proposed development doesn't provide sufficient details regarding the provision of a safe and convenient drop off and off street parking for parents and staff.
- Traffic - intensification of an already congested estate. Overlap of National School and Montessori times leading to additional parking congestion.
- Retired residents cannot have access to emergency services due to large number of additional cars parking and obstructing entrances.
- Increased noise and nuisance levels. Classes being set up in the green from the Montessori.
- Inadequate open space provision (policy PM 75).
- Historical significance and ownership of the site. Disused paupers/children's graveyard. Need for Archaeological testing. Celtic Cross Monument to loss of life at sea aboard the Gainsborough, shipwrecked 29th November 1838.
- Questions over the ownership of the site, possibly in the ownership of Fingal.
- Intensification of use which would be significant and negative in terms of impact on the residential amenities and traffic safety and convenience of residents of The Cove.

6.2. Applicant Response

6.2.1. The applicant responds to the appeal as follows:

- Rigorous assessment carried out by the Planning Authority of all issues raised by 3rd parties at PA stage.
- Compliant with conditions imposed in permission for existing development. Original application was not appealed by the residents of the Cove. Applicant bound by these conditions especially in terms of the drop off area.

- Principle of development supported by RS zoning of the site. Appellant attempting to open up principle of use at the location which has already been determined.
- The facility would improve the residential amenity of the RS zoned lands. There is a need for the facility in the local area. The use is permitted in principle in the zone.
- Incidental to main structure
- No significant impact on visual or residential amenities of the area
- Applicant prepared if Board deems necessary to provide set down area off Sea Road in the interest of being good neighbours.

6.3. **Planning Authority Response**

- 6.3.1. The planning authority respond to the appeal (13th August 2018) commented as follows; The pedestrian footpath does not form part of the current application and was included on the existing site layout plan. The Transportation Dept. have assessed the application and no objection was raised. Conditions 3,4, and 5 have been included to address concerns around the historical context of the site. The Planning Authority was satisfied regarding the matter of ownership. The application is consistent with the proper planning and sustainable development of the area and the Board is requested to uphold the decision of the Planning Authority. If the Board decide to grant permission for the development, they request that conditions no'd 3,4,5 and 12 are included.

6.4. **Observations/Further Responses**

- 6.4.1. None.

7.0 **Assessment**

- 7.1. Having regard to the details on file regarding the proposed development, its development plan context and my inspection of the appeal site, I consider that the key issues for this appeal relate to, and are confined to, the matters raised by the third-party appellant, as follows:

- Consistency with zoning of the site and policies for childcare facilities.
- Impact on traffic.
- Impact on amenity of the adjoining property.
- Historical significance of site.
- Noise and disturbance.
- Appropriate Assessment.
- Environmental Impact Assessment.

7.2. Consistency with Zoning and Policies in Respect of Childcare Facilities.

7.2.1. The appeal site lies in a residential area and is zoned 'RS', Residential, the objective of which is to '*Provide for residential development and protect and improve residential amenity*'. Childcare uses are acceptable in principle in residential areas under the government's Guidelines on Childcare Facilities and within the zone.

7.2.2. The Department's Guidelines on Childcare Facilities and the County Development Plan set out criteria for the assessment of the suitability of childcare facilities and I comment on each of these below:

- Suitability of the site for the type and size of facility proposed – The proposed development is a for an increase in capacity of an existing Montessori facility from 20 to 31 children, with one sessions running from 9am to 12.30pm weekdays only. In principle the scale of the development, within an established residential area, is acceptable. However, I have concerns regarding access and set down parking and impact on residential amenity, discussed below.
- Convenience to public transport nodes – The proposed development lies on Sea Road and whilst it is not directly convenient to a public transport node it is within ready walking distance to the public bus route on Yellow Walls Road
- Access and parking for parents and staff/local traffic conditions – Access for parents and children to the appeal site is via the cul de sac within The Cove Estate. The estate was built over 40 years ago and the cul de sac is quite narrow. I would accept that given the design of the estate, the area is

vulnerable to a high level of congestion and difficulty in finding parking spaces.

- The proposed development provides off-road parking facility for staff (the applicant/operator 2 x spaces) but no additional drop-off capacity and the facility would operate 9am to 12.30 pm Monday to Friday. The effect of the development would be therefore to create a worst-case scenario of 11 additional vehicle trips at the start and end of each Montessori session into the estate which in my opinion represents an unacceptable intensification which would add significantly to congestion in the already busy estate, with the consequential increased risk of ad hoc parking and accidents and the risk of reduced access for emergency services.

7.3. Impact on traffic

7.3.1. For the reasons stated above, whilst the proposed development is quite modest in scale, it will give rise to a substantial increase in vehicle movements (representing a 50% increase in child numbers), accessing the site, and in the absence of an adequate drop-off space, it is my view that the proposed development would unreasonably add to existing congestion and could endanger public safety by reason of traffic hazard.

7.3.2. It is noted that the applicant has included a revised plan with a proposed set down area to the Sea Road however this would require supporting documentation in the form of a Road Safety Audit to allow for a thorough analysis of its viability

7.4. Historical significance of the site.

7.4.1 The site was formerly a band room which stood derelict for a considerable length of time before the current use was permitted in 2012. Whilst this re use is therefore welcomed, the proposed intensification must be considered in terms of the balance to be struck between the provision of an valuable community services and the impact upon the character and significance of the site.

7.4.2 In this instance the proposed log cabin would sit approx. 1.5m from a Celtic cross erected in memory of seamen lost aboard the Gainsborough shipwrecked in 1838 and would partially obscure the attractive view of the existing white render gable of the former band room from Sea Road. It is my opinion that the proposed cabin represents an inappropriate and insensitive visual intervention in this setting. Whilst the planning authority has sought to mitigate the impact of the new extension on the monument by the relocation of the play area i don't consider this is sufficient to address the negative impact of the new structure.

7.5. Impact on amenity of the adjoining property

7.5.1. The proposed log cabin lies to the east of the appeal site and the existing montessori in the restored band room/ community hall. It is at a remove from the appellants property in terms of visual connection.

7.5.2. In view of the above, I consider that the proposed development located to the east of the existing structure, would not detract from the privacy of the residential properties adjoining the site.

7.6. Noise and disturbance.

7.6.1. The appeal site is self-contained and I do not consider that the increase in child numbers will have a significant impact from a noise or disturbance perspective on the residential amenity of adjoining properties.

7.7. Appropriate Assessment Screening.

7.7.1. The nearest European site lies 35m to the north of the appeal site and comprises the Malahide Estuary SAC (site code 000205).

7.7.2. Having regard to the nature and scale of the proposed development, and its location in an established urban area, I do not consider that any Appropriate Assessment issues

arise or 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.

8.0 Screening for Environmental Impact Assessment

- 8.1. The proposed development is of a type that does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended). The need for screening for environmental impact assessment is therefore not required.

9.0 Recommendation

- 9.1. Having regard to my assessment above, I recommend that permission for the development be refused for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the location of the proposed development, to the access through The Cove estate, and the absence of the provision of an appropriate set down area in a residential area which already experiences a high level of congestion, it is considered that the proposed development would seriously injure the amenities of properties in the vicinity and endanger public safety by reason of traffic hazard. Furthermore, the proposed location, design and layout of the proposed extension would adversely impact upon the character and setting of the Celtic cross monument and would represent an inappropriate and intensive extension to the existing Montessori building. The proposed development would not, therefore, be in accordance with the proper planning and sustainable development of the area.

Rachel Kenny

Director of Planning

18th November 2018