



An
Bord
Pleanála

Inspector's Report ABP – 302170 – 18.

Development	Change of Use of Education Facility to Pre-School Childcare.
Location	St. Patricks N.S., Diswellstown Road, Castleknock, Dublin 15.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	FW18A/0060.
Applicant	Tigers Childcare.
Type of Application	Planning Permission
Planning Authority Decision	Grant.
Type of Appeal	Section 48 Appeal
Appellant(s)	Tigers Childcare.
Observers	None
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. Saint Patricks National School is located on Diswellstown Road, in the Dublin suburb of Castleknock. It consists of a 3-storey school building with several outbuildings, parking and associated spaces.

2.0 Proposed Development

- 2.1. Permission is sought for the partial change of use from education facility to pre-school childcare between the hours of 8.45am to 12.45pm and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Fingal County Council **granted** permission subject to conditions. Condition No. 6 subject of this appeal reads: -

“The developer shall pay the sum of €9,395.00 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefitting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the Planning Authority prior to the commencement of development.

REASON: It is considered reasonable that the payment of a contribution be required in respect of the public infrastructure and facilities benefitting development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority.”

4.0 Planning Authority Reports

- 4.1.1. The Planners Report forms the basis of the Planning Authority’s decision to grant permission.

4.1.2. **Other Technical Reports**

- **Traffic/Parking & Water Services:** No objection.

4.2. **Irish Water:**

4.2.1. No objection.

4.3. **Prescribed Bodies**

4.3.1. None.

4.4. **Third Party Observations**

4.4.1. None.

5.0 **Planning History**

5.1. **Appeal Site:**

ABP Ref. No. PL06F.208123 (P.A. Reg. Ref. No. F04A/0690): On appeal permission was **granted** for a 3-storey primary school with ancillary accommodation.

6.0 **Policy Context**

6.1. **Development Plan**

6.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned 'C1' - Community Infrastructure which has an aim to: "*provide for and protect civic, religious, community, education, health care and social infrastructure*".

6.2. **Other:**

6.2.1. The Fingal County Council Development Contribution Scheme 2016 -2020 (under Section 48, Planning and Development Act, 2000, as amended) is the applicable scheme for development in the locality of the appeal site. I note the following sections of the scheme: -

- Section 6: Sets out the basis for determination of a contribution.

- Section 9: Sets out the level of contribution for residential, commercial and industrial/commercial classes of development.
- Section 10: This sets out exemptions and reductions from the scheme.
- Section 15: This sets out that an appeal may be brought to An Bord Pleanála under Section 34 of the Act.

6.3. Natural Heritage Designations

6.3.1. None relevant.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The grounds of appeal can be summarised as follows: -

- The appellants intend on running an ECCE funded pre-school and it will be a community-based service.
- The Planning Authority advised that no contributions would be required.
- There is no substantial intensification of use as the area in which the proposed development will be carried out as it is underutilised.
- Reference is made to contributions for such development in the administrative area of Dublin City Council.

7.2. Planning Authority Response

7.2.1. Fingal County Councils response can be summarised as follows: -

- The proposal would result in a substantial intensification of use of part of the school building and it would also be a commercially run operation.
- There is no record that the appellants agent was advised that no contribution would be applied to the proposed development.
- Change of use is not exempt under Section 109(r) of the Fingal County Council Development Contribution Scheme 2016-2020.

- It is appropriate that a contribution is applied to commercial operations.
- The condition is in accordance with the adopted contribution scheme.

7.3. Observations

7.3.1. None.

8.0 Assessment

8.1.1. This assessment relates to a 1st Party appeal against Condition 6 and the appellant requests that the Board limit its determination of this appeal to the said condition.

8.1.2. The appellant contends that the pre-school is a community-based service and that there is much need for such a service in this area. They contend that there is no substantial intensification of use as the change of use relates to an area of the school that is underutilised. They raise a concern that prior to the application they were advised by the Council that no contributions would be applicable to the proposed development. In addition to this the appellant refers to the application of Section 48 development contribution scheme for the administrative area of Dublin City Council, which neighbours the administrative boundaries of Fingal County Council.

8.1.3. The Planning Authority in their response to the appellants grounds of appeal submit that the development contribution levy was correctly calculated according to the provisions set out in their Development Contribution Scheme for this class of development. They contend that the change of use in their view would result in an intensification of existing use having regard to the proposed 44 children that would be taught in two classrooms by 4 members of staff. In addition, they note that the pre-school facility would be run as a commercial operation and they have no record that the appellant was advised that no contribution would be applied to the proposed development in the event of a grant of permission. They request that the Board maintain Condition No. 6 in its entirety.

8.1.4. This planning application comes under the scope of the Fingal Development Contribution Scheme, 2016-2020. This scheme is applicable to all development contributions payable in respect of planning permission and payments made to the

Council after the 1st January 2018, are subject to development contribution rates. Of note non-residential developments increased to €67.11m². Development Contribution Schemes for neighbouring Planning Authority administrative areas are not a relevant consideration.

- 8.1.5. Section 10 of the scheme sets out several exemptions and reductions to the payment of development contributions. It includes subsection (e) which exempts non-commercial community related developments by voluntary non-profit making groups, clubs or organisations; and subsection (r) which exempts change of use applications unless the revised usage constitutes a substantial intensification of use of the building or services.
- 8.1.6. Based on the information on file the appellant is running the pre-school as a commercial enterprise *albeit* one that would be funded by the ECCE pre-school scheme. In addition, I agree with the Planning Authority that the proposed change of use would result in an intensification of the existing authorised use and that it is common for an educational facility to have spaces that are not used as intensely as their classroom spaces. Yet these spaces contribute to the provision of a balanced and well-rounded educational provision. In this context the provision of the pre-school with a total number of 44 children taught within the provision of two new classrooms by 4 staff members is in my opinion an intensification of the existing use at St. Patricks National School. I therefore do not consider that subsection (e) and (r) are applicable exemptions to the development sought under this application. Moreover, I do not consider that any of the other exemptions and reductions listed under Section 10 of the scheme are applicable.
- 8.1.7. Having regard to the gross floor area of the change of use which is 140m² and to the non-residential development rate of €67.11m² which gives rise to a development contribution charge of €9,395.4. I note that the Planning Authority under Condition No. 6 rounds this sum to €9,395 which I consider is reasonable.
- 8.1.8. In conclusion, I consider that the terms of the Fingal Development Contribution Scheme, 2016-2020, has been properly applied in this case and I recommend that the Condition No. 6 is maintained in its entirety and not amended by the Board.

9.0 Recommendation

- 9.1. Based on the reasons and considerations set out under Schedule 1 below, I consider that the terms of the Fingal Development Contribution Scheme, 2016-2020, have been properly applied in respect of Condition 6 of Fingal County Councils notification to grant planning permission for the development sought under P.A. Reg. Ref. No. FW18A/0060.

10.0 Reasons and Considerations

- 10.1. Having regard to Fingal Development Contribution Scheme, 2016-2020, it is considered that the terms of the Development Contribution Scheme were correctly interpreted by the Planning Authority insofar as the proposed development is subject to financial contributions.

Patricia-Marie Young
Planning Inspector

3rd October 2018