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<b>Development</b>	Erection of a Portacabin for sessional use for Childcare Facilities including before-school care
<b>Location</b>	No.13, Lios Dubhaile, Dualla Village, County Tipperary.
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	18601319
<b>Applicant</b>	Dualla Village Pre-School
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party – v – Refusal
<b>Appellant</b>	Dualla Village Pre-School
<b>Date of Site Inspection</b>	14 <sup>th</sup> , May 2019
<b>Inspector</b>	Paddy Keogh

## 1.0 Site Location and Description

- 1.1.1. The site of the proposed development which has a stated area of 0.0353 ha. currently forms the side garden of a semi-detached dwelling (No. 13) which is located towards the rear of an established housing estate called Lios Dubhaile (34 houses in total) within Dualla village. The site will be provided by the subdivision of the side garden from the site of the existing dwelling at No. 13.
- 1.1.2. Dualla is located on either side of the of the R691-2. The Lios Dubhaile estate is located on the western side of the R691-2. A similar scale housing estate is located on the eastern side of the R691-2. The remainder of the village consists of a scattering of individual dwellings, the church, a community hall and National School etc.
- 1.1.3. The application site is accessed from the bottom of a short cul-de-sac that terminates in a hammerhead. The bottom of this cul-de-sac and the northern boundary of the application site adjoin lands that are owned by the National School. These lands are in use as a sports field.

## 2.0 Proposed Development

- 2.1.1. The proposed development involves the erection of a portacabin in the side garden of a semi-detached dwelling (No. 13 Lios Dubhaile) for sessional use as a childcare facility.
- 2.1.2. The proposed portacabin has a stated gross floor area 72 sq.m. and contains lobby, bathroom and classroom accommodation.
- 2.1.3. The proposed facility will be used for the provision of sessional childcare (Monday to Friday inclusive) including
  - Before school care between 7.30 am and 9.10 am (ages 4 to 12 years)
  - Pre-school care from 9.20 am to 12.20 pm (ages 2.5 to 5 years)
  - After school care from 2.00pm to 4.00pm (ages 4 to 12 years)
- 2.1.4. The proposed development will connect to public services including water supply and the village wastewater treatment plant.

## 3.0 Planning Authority Decision

### 3.1. Decision

Notification of a decision to refuse planning permission for the proposed development was issued by the planning authority for 3 reasons per Order dated 3<sup>rd</sup>, January 2019. Briefly, the reasons for refusal were as follows:

- (1) It is considered that the proposed development by virtue of its design, operating hours, traffic generation and noise nuisance would detract from the existing residential amenity and would be at variance with the land use zoning objective for the site.
- (2) Failure to comply with site development standards as set out in the South Tipperary Development Plan 2009 in relation to car parking provision to serve the proposed development.
- (3) In the absence of permanent traffic management proposals to cater for car movements associated with the proposed development the planning authority is not satisfied that the proposed development would not endanger public safety by reason of a traffic hazard.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report (dated 18<sup>th</sup>, December 2018)

- The site is zoned residential in the South Tipperary County Development Plan 2009.
- Childcare facilities are 'open for consideration' within this existing residential land use zone.
- Section 4.7 of the Development Plan sets out policy in relation the childcare facilities. Childcare facilities are acceptable in principle in an area with a proven demand for childcare and where they are located so as to reduce the need for unsustainable traffic movements.
- The proposed development would occupy the side garden and part of the limited rear garden of No. 13 Lios Dubhaile leaving a very limited rear garden available for the occupants of the dwelling.

- The location of a portacabin to the side of an existing dwelling will detract from the visual amenity of this residential area.
- The facility which will operate between the hours of 07.30am and 6.00pm will cater for 22 pre-school users and 30 afterschool users.
- There is no car parking provision to serve the proposed development. The proposed development will result in increased traffic movements and associated noise within the housing estate.
- The proposed development does not comply with the land use zoning objective for the site and would set an undesirable precedent for similar development.
- c. 10 car parking spaces would be required to serve the proposed development in accordance with site development standards as set out in the County Development Plan. Only one space is proposed.
- The site of the proposed development is accessed from a short cul-de-sac to the rear of the housing estate. The development is not served by a turning area. Traffic will drop-off and pick-up from the corner of the entrance to the cul-de-sac with the exception of one user with a disability who will be facilitated to access the portacabin from the footpath to the front. It is stated that users travelling by car will make drop-offs and collections travelling in a clockwise direction through the estate road. The cul-de-sac will be cordoned off on a daily basis to prevent users parking in front of the facility. The District Engineer has reported that the closing off of the road on a daily basis and the implementation of the proposed temporary traffic management measures on a daily basis are unacceptable.

The decision is in accordance with the Planner's recommendation.

### 3.2.2. Other Technical Reports

District Engineer. – A report from the planning authority District Engineer dated 4<sup>th</sup>, December 2018 states that the closing of the public road and the installation of temporary traffic management measures on a daily basis is unacceptable. The Applicant shall provide permanent traffic management proposals for the proposed development which do not interfere with the free movement of traffic on the public road.

Water Services – The report from the Area Planner dated 18<sup>th</sup>, December 2018 refers to a verbal report from Water Services Department that the existing waste water plant

(to which it is proposed to connect) was designed for a PE of 300 has capacity to cater for the proposed development.

### 3.2.3. Other Reports

A letter from the Deputy Chief Executive Officer of the Tipperary Childcare Committee dated 23<sup>rd</sup>, December 2018 states that the Childcare Committee have no objection to the proposed development. It is stated that this development is required to maintain an essential pre-school service in Dualla Village.

## 4.0 Planning History

Reg. Ref. 010/9 – Planning permission for 34 houses and ancillary site development works was granted by the planning authority per Order dated 13<sup>th</sup>, October 2011. The current appeal site relates to house No. 13 in this scheme.

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1. Tipperary Co. Council was established on 1<sup>st</sup>, June 2014 (amalgamation of North and South Tipperary). Following the establishment of Tipperary Co. Council the Development Plans for both North Tipperary and South Tipperary had their lifetimes extended and will remain in effect until a new Regional Spatial and Economic Strategy is made after which a new Tipperary County Development Plan will be prepared.

5.1.2. The South Tipperary County Development Plan 2009 currently remains in force.

5.1.3. The site of the proposed development is zoned residential in the current Development Plan. The stated objective of this zoning is '*To preserve and enhance existing residential development and residential amenity and provide for additional facilities where gaps are identified*'.

5.1.4. Objective S01 for Dualla Village seeks to '*...enhance the existing community facilities and facilitate the provision of additional facilities within the village.*

5.1.5. Section 4.7 of the Development Plan states:

*Childcare facilities are acceptable in principle in areas with a proven demand for childcare and where they are located to reduce the need for unsustainable traffic movements. Appropriate locations include town centres, neighbourhood centres and residential areas....'*

5.1.6. Policy SC7 of the Development Plan states:

*It is policy of the Council to facilitate childcare facilities at easily accessible central locations in association with housing and other development in compliance with the County Childcare Strategy requirements and the Childcare Facilities Guidelines for Planning Authorities (DOEHLG 2001) or any amendments thereof.....*

*The Council will also consider the provision of childcare facilities in appropriate locations, including town centres, neighbourhood centres and in residential areas.....*

5.1.7. Table 10.2 (Minimum Car Parking Standards) of the Development Plan stipulates a minimum car parking provision for creches of one space per staff member plus one space for every 5 children.

## 5.2. **Childcare Facilities Guidelines 2001**

5.2.1. These guidelines published by the Department of the Environment, Housing & Local Government aim to guide both local authorities in preparing development plans and assessing applications of planning permission, and developers and childcare providers in formulating development proposals. Appendix 1 of the Guidelines set out general standards that should be applied in relation to childcare facilities.

## 5.3. **Natural Heritage Designations**

The Lower River Suir Special Area of Conservation (SAC) is located c. 8.5 km to the west of the site. This is the only Natura 2000 site within 15km of the site.

## 5.4. **EIA Screening**

6.0 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.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The submitted grounds of appeal include:

- The Applicant (Dualla Village Pre-School) currently operates from the village Community Hall. However, plans are afoot for the refurbishment of the Community Hall. No commitment has been given by the Community Hall Committee that the pre-school and after school services can recommence after following refurbishment. Consequently, it is necessary to find a new location for Dualla Village Pre-School.
- The facility is owned and operated and will be staffed by two residents of Lios Dubhaile. (living in No. 13 \and No. 19). Both will walk to and from work. Thus, they will not generate a demand for staff car parking at the facility.
- The pre-school facility is a feeder for the local National School. The operators approached the National School to explore the possibility of re-locating from the Community Hall to the National School. However, due to lack of capacity in the school buildings this request could not be facilitated.
- No. 13 Lios Dubhaile is a corner site adjoining the sports field attached to the National School. The location of the site nestled at the rear of the housing estate together with its layout render it suitable to accommodate the proposed development. Following the sub-division of the site, adequate private open space will be retained to serve house No. 13.
- There were no objections to the proposed development lodged with the planning authority and the proposed development has the support of the Tipperary Community and Childcare Council who recognise the need for the facility in the village.
- The site of the proposed development is zoned residential in the current Development Plan. The stated objective of this zoning is '*To preserve and enhance existing residential development and residential amenity and provide for additional facilities where gaps are identified*'. The proposed development is compatible with this zoning objective. It will predominantly serve residents of

the housing estate within which it will be located. In the absence of the facility parents will be forced to commute with their children to external towns and villages to avail of childcare facilities.

- Both staff of the proposed facility live on the estate and will walk to and from work. Most of the children attending the facility live on the housing estate and will walk (or be walked) to and from the facility.
- The Traffic Management Plan proposed to cater for the few parents that drop-off and pick-up their children by car involves taking advantage of the circular route of the internal road serving the housing estate (in a one-way fashion) to ensure minimum disruption to residents of the estate. If this is not acceptable, the Applicants are happy to revert to a similar style of arrangement to that currently being operated whereby children attending the facility in the Community Hall are collected from the car park near the Community Hall and walked to the Community Hall.
- In relation to Reason for Refusal No. 3 cited by the planning authority in their notification of decision to refuse planning permission, the Applicant's believe that they were not given adequate opportunity to demonstrate to the planning authority how their alternative proposal for pick-up and drop-off of children attending the facility might operate (along similar lines to that currently being operated in connection with the Community Hall facility).

## **7.2. Planning Authority Response**

None

## **8.0 Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment



also needs to be addressed. The issues can be dealt with under the following headings:

- (1) Use
- (2) Car Parking & Traffic
- (3) Appropriate Assessment

(1) Use

- 8.1.1. The site of the proposed development is zoned existing residential in the South Tipperary County Development Plan 2009. Childcare facilities are open for consideration at appropriate locations within this zoning.
- 8.1.2. The submitted appeal documentation demonstrates a clear need for a facility of the nature being proposed to serve the village of Dualla. It appears that the facility has been operating successfully from the Community Hall to meet this need for a number of years. This premises is no longer available (at least in the short term) and a new premises is required.
- 8.1.3. The operators of the childcare facility, both of whom live within the Lios Dubhaile housing estate, now wish to relocate the childcare facility into a portacabin to be placed in the side garden of No. 13 Lios Dubhaile.
- 8.1.4. I consider that there would be no objection in principle to the operation of a childcare facility from a suitable premises within the housing estate. The proposed development has merit insofar as it would serve a local need and many users of the facility are already living in the housing estate and will walk to and from the facility. Furthermore, both staff of the proposed facility will walk to and from work.
- 8.1.5. However, notwithstanding the accepted need for the facility and merits of the proposed development, I consider that the current proposal suffers from a number of shortcomings, as follows:
  - The site of the proposed development is extremely restricted in area. The proposed portacabin is large in proportion to the small site area and relative to the scale of the existing semi-detached dwelling on the site from which the application site is to be sub-divided.
  - The proposed facility will be relatively intensively used throughout the day (Monday to Friday inclusive) catering for up to 22 pre-school children and up to 30 after-school children.

- There is limited outdoor play or other areas and circulation space within the site.
- A very limited area of private open space will be retained to serve the family dwelling at No. 13. The submitted grounds of appeal state that this area will be of a similar scale to the private open space serving other semi-detached dwellings in Lios Dubhalie. However, having inspected the submitted documentation and the site I conclude that the private open space to be retained will barely match the size of the private open space serving other houses within the estate. It would provide for a bare minimum of space particularly in light of the fact that the retained garden of No. 13 will immediately adjoin a site that will be intensively used throughout the day for the operation of a commercial enterprise.
- The proposed portacabin is large in scale relative to the adjacent dwellings, industrial in appearance and will be visually unattractive when viewed from local vantage points within the housing estate.

8.1.6. The submitted grounds of appeal highlight the fact that no third parties have objected to the proposed development. Notwithstanding this fact and the fact that a number of local residents would be users of the proposed facility, in the circumstances outlined, I consider that given its nature, scale and intensity of use, the proposed development will result in potential serious injury to the residential amenities of the area by reason of noise and other nuisance associated with the dropping-off and collection of children from the facility (addressed in more detail below). Furthermore, I consider that the proposed structure would be visually incongruous at this location.

8.1.7. It is often an option in assessing proposals for home based childcare facilities to consider granting planning permission subject to the attachment of a condition restricting the maximum number of children to be catered for at the facility at any one time and for a temporary period initially in order that the impact of the proposed development on the residential amenity of the area can be monitored and reviewed. However, I do not consider that this is a realistic option in the case of the current proposal in light of the 'stand alone' nature of the proposed development and the relatively substantial construction works that would be involved in the provision of the facility.

## (2) Car Parking & Traffic

- 8.1.8. Site development standards as set out in the South Tipperary County Development Plan 2009 stipulate an off-street car parking requirement of 1 space per staff member and 1 space per every 5 children catered for at the childcare facility. This would result in a car parking requirement of c. 8 spaces (2 for staff plus 6 for parents of children dropping-off and collecting children). One car parking space only is to be provided.
- 8.1.9. The submitted grounds of appeal highlight the fact that both of the staff operating the proposed facility will walk to and from work and many of the children attending the facility live within the Lios Dubhaile housing estate and will be walked to and from the facility. In the circumstances outlined, I consider that a significant relaxation in car parking requirements could be permitted in this instance.
- 8.1.10. The submitted grounds of appeal indicate a Traffic Management Plan to be implemented for traffic passing through the Lios Dubhaile housing estate generated by the proposed development. Vehicles will be required to travel in a clockwise fashion around the central open space. In addition, traffic cones will be placed (on a daily basis) at the neck of the cul-de-sac serving the childcare facility. The planning authority District Engineer is unhappy with this proposed arrangement. In my view, this arrangement is workable from a traffic management point of view and would not give rise to a traffic hazard (the nature of the carriageway etc. is such that cars will be forced to proceed with care and to travel at a slow pace). However, notwithstanding the number of children that would arrive and depart from the facility on foot, I consider that a facility of the scale being proposed (up to 22 pre-school and up to 30 after-school children) will result in a significant number of vehicle turning movements throughout the estate including in front of neighbouring houses in the immediate vicinity of the proposed facility particularly at early morning, morning, midday and evening drop-off and pick-up times. I consider that these traffic turning movements will result in considerable nuisance and disruption for other residents of the estate and adversely impact on the residential amenities of the estate. Furthermore, I consider that the proposal to manage traffic by the placing of cones, on a daily basis, at the entrance to the cul-de-sac serving the childcare facility (shown on the submitted drawing as being located immediately in front of a neighbouring house) is unworkable.
- 8.1.11. The grounds of appeal outline an alternative proposal to provide for the collection and delivery of children to/from the car park adjacent to the Community Hall who would

then be walked to and from the childcare facility obviating the need for vehicles calling to the facility itself. It is pointed out that a similar system works successfully in relation to the operation of the existing facility from the village Community Hall. I consider that a properly managed arrangement of this nature may have some merit. However, I do not consider that the proposal warrants further exploration in the context of the current appeal in light of the substantial reason for refusal relating to the excessive scale and intensity of the proposed development and its impact on residential amenity.

### (3) Appropriate Assessment

8.1.12. The planning authority in their consideration of the proposed development conducted screening exercise for Appropriate Assessment and concluded that there was no potential for significant effects on the environment arising from the proposed development. I agree with this conclusion.

8.1.13. Having regard to the nature and limited scale of development proposed (including proposed connections to the public water main and existing village effluent treatment plant) and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

## 9.0 Recommendation

9.1. I recommend that planning permission for the proposed development be refused for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

The site of the proposed development is located within an area zoned 'Existing Residential' in the South Tipperary County Development Plan 2009. The stated objective of this zoning is 'To preserve and enhance existing residential development and residential amenity and provide for additional facilities where gaps are identified'. A childcare facility is open for consideration within this zoning. Nonetheless, it is considered that having

regard to the nature, design, scale and intensity of use of the proposed development on a site that is severely restricted both in terms of area and access arrangements, it is considered that the proposed development would seriously injure the residential amenities of the surrounding area by reason of noise, adverse visual impact and disturbance arising from vehicle turning movements in the immediate vicinity of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Paddy Keogh  
Planning Inspector

29<sup>th</sup>, May 2019