



An
Bord
Pleanála

Inspector's Report ABP-303927-19

Development

Retention of change of use of house, "Bradgate", to Montessori school, retention of the increase in the number of students from 15 to 35, retention of the extension of the hours of operation from 8am-2pm to 8am-6pm, and permission to set back the front wall of the property and adjoining residential property of "Sallywood" to facilitate a set down area.

Location

Countess Road, Avenue, Killarney, County Kerry

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

18/753

Applicant(s)

Montessori House of Children

Type of Application

Retention Permission & Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Grace O'Neill & Others

Observer(s)

Anne Marie Kennelly

Date of Site Inspection

21st May, 2019

Inspector

Kevin Moore

1.0 Site Location and Description

- 1.1. The appeal site is located to the east of Killarney town centre on the northern side of Countess Road at its junction with Rookery Road. It comprises a semi-detached house, 'Bradgate', and its associated curtilage. The existing "Montessori House of Children" occupies this former dwelling, with the ground floor used as classrooms and the first floor in uses associated with the functioning pre-school premises. 'Sallywood' is a detached two-storey house to the east. Both properties are bounded by block walls and each have a single vehicular access gate onto Countess Road.
- 1.2. Countess Road and Rookery Road are generally characterised by low density residential development. These roads form part of the local through road network in this part of Killarney that lead to the town centre and they are heavily trafficked at peak times. The Countess Road – Rookery Road junction is priority controlled. Traffic calming/pedestrian priority measures in the vicinity include a ramped pedestrian crossing a short distance to the west on Countess Road. Double yellow lines extend on both sides of both roads away from the junction. St. Oliver's National School is located nearby on Rookery Road.

2.0 Proposed Development

- 2.1. The proposed development seeks to increase the number of children attending the Montessori school and to extend the operating hours of the school. It includes:
 - Retention of the change of use of all of "Bradgate" from a dwelling to a Montessori school and associated offices (a stated gross floor space of 175.5 square metres);
 - To increase the number of students from that permitted under Planning Permission 93/202467 by 20 places, to provide a total of 35 places at any one time;
 - To extend the hours of operation from that permitted under Planning Permission 93/202467 from 08.00-14.00 to 08.00-18.00; and
 - To set back the front wall of "Bradgate" and the adjoining "Sallywood" to provide a set-down area.

- 2.2 Details submitted with the application included a Cover Report and a Traffic Assessment Report.
- 2.3 Further information, following a request from the planning authority, provided details on traffic and vehicular and pedestrian movement, parking, and clarity on the use of the entire building. Unsolicited further information in response to third party submissions was also submitted to the planning authority on 12th February, 2019.

3.0 Planning Authority Decision

3.1. Decision

On 19th February, 2019, Kerry County Council decided to grant permission for the development subject to 13 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

In the first report, the Planner noted development plan provisions, planning history, reports received and third party submissions made. It was noted that operations at the school have extended beyond the planning permission granted under 93/202467 and that no enforcement action was ever taken. Acknowledging the previous application that was refused by the Board, it was stated that the current application is proposing to retain the operations that exist. Proposals for drop off and pick up set out in the application were noted. A request for further information was recommended based upon the Engineers' reports received and clarifying the use of the entire premises.

In the second report following the receipt of further information, the Planner noted the response to the further information request, the Municipal District Engineer's report and the third party submissions. It was submitted that all of the issues raised in the further information request had been addressed. It was considered that the first two reasons in the Board's previous decision were irrelevant as they applied to a larger extended school proposal. It was further considered that the new application addressed the third reason for refusal in the Board's previous decision. It was noted that the Town Engineer agreed the revised parking proposals and that a special levy

for implementation was to be imposed. Noting the existence of the school since 1993, it was considered that it is not possible to reach an ideal situation in terms of car parking requirements. The revised proposal was seen to provide order to parking. The use was seen to be appropriate within the 'Existing Residential' zone. Noting the proximity to the town centre, to residential properties, and to the town's largest primary school (St. Oliver's National School), it was submitted that this location cuts down on unnecessary car journeys and allows those that live close to the town centre to walk to the facility. It was concluded that a school catering for 35 children per session would be acceptable and that it would not significantly injure the residential amenities of adjoining properties. A grant of permission was recommended subject to conditions.

3.2.2. Other Technical Reports

The Fire Officer submitted that the application for retention if granted would conflict with the requirements of the Building Control Regulations and recommended that the application is deferred pending receipt of a valid application for a Registration Certificate.

The Operations & Safety Engineer requested clarity on the final layout of the entrance to the development and improvements to the Rookery Road junction, clarification on the exact number of children proposed to attend, a requirement for the traffic impact assessment to analyse the development taking into account a staggered drop off may not be possible, a reassessment of traffic volumes on Countess Road due to underestimation at peak hour, and the carrying out of a Road Safety Audit Stage 1.

The Municipal District Engineer requested further information including a traffic impact assessment, a Road Safety Audit and further details on vehicle movements, pedestrian movements, the potential for a parking area in front of the adjoining "Sallywood", and details on disabled parking.

Following the submission of further information, the Municipal District Engineer submitted what appeared to be a schedule of conditions.

3.3. Prescribed Bodies

The Health Service Executive stated it had no observations to make from a public health viewpoint.

3.4. Third Party Observations

Letters of support were submitted to the planning authority by Fossa National School (dated 31st May, 2016), Kerry Intervention & Disability Services (dated 25th May, 2016), KASI Ltd., Kerry County Childcare Committee, Fiona Donnelly, Orla O’Gorman, Carol Turner, Mary Ann Moriarty, Jeremiah Linehan and Ann Cowman Linihen, Irish Wheelchair Association, Alicia Slawinska, Aidan Murray, Wioleta Wojciechowska, Dr Ciaran Healy and Dr Nikki O’Keefe, Killarney Chamber of Tourism and Commerce, Paula O’Regan, Suisan Hayes, Anne Marie, David and Emma Kennelly, Fran Malone, Evelyn Egan, Terence F. Casey, McKenzie Keane, and Noreen Sheahan.

Objections to the proposal were received from Michael Hickey and Ann Courtney, Eoin Gleeson, Grace O’Neill, Michelle Murphy, Ronan and Marion Doyle, Residents of Countess Road, Tim and Abina Spillane, and Valerie Claret. These raised concerns that included the validity of the application, enforcement, parking and traffic, the lack of a residential element, and impacts on residential amenity.

4.0 Planning History

ABP Ref. PL 63.091650 (P.A. Ref. 93/202467)

Permission was granted in 1993 for an extension to “Bradgate” for use as a Montessori school. Under this permission the operational hours of the school were restricted to 0800 to 1400 Monday to Friday and the number of children at the school was restricted to a maximum of 15 at any time.

ABP Ref. PL 08.249011 (P.A. Ref. 16/647)

Permission was refused by the Board for a proposed development that comprised:

Retention of:

(a) an increase in the number of students attending the Montessori House of Children from the 15 number places previously granted under planning register reference number 93/202467,

(b) revision in the hours of operation of the Montessori School to operate between 8.30 a.m. to 5.15 p.m., and

Permission for:

- (i) the change of use of the original “Bradgate” building to residential use,
- (ii) the extension (over two floors) and change of use of “Sallywood” from residential to childcare/Montessori school to accommodate 66 number childcare places,
- (iii) the reconfiguration of the site entrances to the properties known as “Sallywood” and “Bradgate” to facilitate a new combined parking and drop off area, and
- (iv) modifications to site boundaries, all located at “Bradgate” and “Sallywood”.

The development was refused for three reasons relating to the excessive scale of the proposed facility and the consequential impact on residential amenity, traffic hazard arising from the development’s location on a heavily trafficked road and the deficiency in car parking, and the development contravening the permission issued by the Board under Appeal Ref. PL 63.091650.

5.0 Policy and Context

5.1. Kerry County Development Plan 2015-2021

Childcare Facilities

Objectives include:

SC-22: Encourage, promote and facilitate the sustainable provision of quality affordable childcare facilities in accordance with national policy and relevant guidelines.

SC-23: Permit childcare facilities in existing residential areas provided that they do not have a significant impact on the character or amenities of an

area, particularly with regard to car parking, traffic generation and noise disturbance. Where proposed facilities relate to properties which have been designed and built as dwellings and are surrounded by other houses, a significant residential element should be retained.

Development Management Standards

Parking

Childcare Facilities – 1 space per 4 children and 1 space per staff member.

5.2 Killarney Town Development Plan 2009-2015

Zoning

The site is zoned 'Existing Residential'. A playgroup and crèche are uses that are permitted within this zone.

Development Management Standards

Car Parking Standards

Playschools, Crèches

1 space per employee and adequate set down/loading areas.

Childcare Creches / Playschools

In general childcare facilities will be assessed on the following:

- The suitability of the site/premises for the type and size of the facility proposed, taking into account the effects on the existing amenities of the area.
- Adequacy of the vehicular and pedestrian access and parking provisions, including an adequate set down/drop off area.
- Provision of an adequate outdoor play area within the curtilage of the facility.
- Ease of accessibility for all.

5.3 Appropriate Assessment

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed

development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.4 EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the third party appeal raise a wide range of issues that include:

- Permission should be refused in accordance with the precedent established by the decision of An Bord Pleanála to refuse permission for retention of the unauthorised development at 'Bradgate'.
- The Childcare Guidelines require the provision of appropriate and convenient off-street parking and/or suitable collection/drop off points and, in existing residential areas, require some residential content to be maintained in the premises.
- No reference was made by the planning authority to Development Plan policies which require that a significant residential element should be retained at 'Bradgate'.
- The applicant has failed to implement Planning Permission PL 63.091650 in accordance with the relevant conditions governing this permission and the planning authority has failed to enforce conditions of that permission. Continued unauthorised development at 'Bradgate' constitutes a serious breach of planning law.
- The applicant has failed to comply with statutory requirements in relation to fire safety.

- The request to provide a parking area at ‘Sallywood’, outside the site boundaries at a separate detached dwelling is *ultra vires*.
- There is no basis for the Road Safety Audit submitted and the special development contribution being sought.
- The planning authority’s request for further information is fundamentally flawed having regard to the significant proposals requiring works on lands outside the site boundary.
- Criticism is made of the applicant’s unsolicited further information and the assessment by the planning authority and it is considered that the decision by the planning authority is fundamentally flawed.
- The retention application would endanger public safety by reason of traffic hazard due to hazardous traffic and parking.
- The development seriously injures the residential amenities of residents by way of noise disturbance and the proposal to provide the set down area would detract from the amenities of the area.
- Reference is made to other Board decisions as precedents – PL 29S.244173 and PL 06D.248137.

The appellant considers that permission should be refused for reasons relating to:

- The applicant having insufficient legal interest to carry out the development,
- Contravention of conditions 1 and 2 of Planning Permission PL 63.0916509,
- Adverse impact on amenities and property values, and
- Traffic hazard and obstruction of road users.

The appeal includes a traffic assessment which reviews the applicant’s traffic analyses and the planning authority’s decision.

6.2. Applicant Response

The applicant’s response to the appeal may be summarised as follows:

- The validity of the appeal is questioned because an appeal has been made on behalf of two separate appellants.

- The procedural issues relating to Kerry County Council's assessment are irrelevant to the consideration of this appeal.
- The proposal constitutes a reasonably modest increase in childcare places beyond that already permitted by the Board under 93/202467. The proposal is fully in line with local and national policy. The applicant disagrees with the assertion that amenities or property values would be compromised. It is submitted that it is not viable for the applicant to operate a Montessori business with just 15 places.
- The proposal is a reasonable extension of operating hours to bring the Montessori School in line with more modern childcare facilities' typical operating hours, i.e. until 18.00 Monday to Friday. The extension of four hours makes a significant difference to the applicant and parents in order to go to full time work. Having undertaken a review of permissions relating to childcare facilities (details attached), no recent permission can be found which restricts the business to only a half working day.
- The proposal provides a significantly revised and improved set-down and traffic plan which is aligned with the Council's objective to improve traffic and pedestrian safety measures on Countess Road through the provision of a set down area and bollards, all of which will be paid for by the applicant. The applicant's traffic impact assessment was robust and both it and the Road Safety Audit were completed to a very high standard. It is further submitted that the appellants' traffic assessment was based on the previous scheme and not on assessment of the development approved by the Council. The permission attaches conditions that require significant contributions that will greatly improve traffic and pedestrian safety for the area.

In conclusion, the Board is asked to expedite the appeal as soon as possible, given the nature of the business and the need for parents to arrange for placements as early as possible.

6.3. Planning Authority Response

The planning authority refuted the accusation by the appellants of objective bias in its decision and submitted that it carried out a professional assessment. It was

further submitted that the Enforcement Section took a practical approach. It was stated that the planning authority applied standard practice in relation to validity of the further information request. The conditioning of a specific levy outside of standard levies was stated to be standard practice. Finally, it was submitted that it is the responsibility of each local authority, when required, to repair and maintain footpaths to prevent tripping hazards.

6.4. **Observations**

The Observer submitted that there is no residents' association for Countess Road, the appellants are speaking only for themselves, and that, as a resident of Countess Road, the appellants are not speaking for her. It is further submitted that Montessori House of Children has not affected the value of property on Countess Road.

7.0 **Assessment**

7.1. Introduction

7.1.1 I consider that the following requires to be considered in this assessment:

- The validity of the appeal,
- The nature and extent of the proposed development,
- The nature and extent of the previously refused proposal,
- The context of the proposed development,
- The proposed development in the context of Development Plan provisions,
- The proposed development in the context of the Childcare Guidelines
- Traffic impact, and
- Impact on residential amenity.

7.2. The Validity of the Appeal

7.2.1 The appellants Grace O'Neill and Ann Courtney and Michael Hickey made separate third party submissions to the planning authority during the period of its

determination of the application. The planning authority acknowledged the receipt of these submissions. They have come together to make a single appeal to the Board. There is nothing to preclude such an approach in the appeal process and I am satisfied that a valid appeal has been made to the Board.

7.3. The Nature and Extent of the Proposed Development

7.3.1 For clarity, I note that the proposed development seeks to:

- Retain the change of use of all of “Bradgate” from a dwelling to a Montessori school and associated offices;
- To increase the number of students from that permitted under Planning Permission 93/202467 by 20 places, i.e. to provide a total of 35 places at any one time;
- To extend the hours of operation from that permitted under Planning Permission 93/202467 from 08.00-14.00 to 08.00-18.00; and
- To set back the front wall of “Bradgate” and the adjoining “Sallywood” to provide a set-down area.

Thus, the Montessori school seeks to accommodate up to 35 children at any one time, over a period of two sessions, during operational hours that would run between 8am and 6pm. ‘Bradgate’ would have no residential component.

7.3.3 The application details include recently employed operational improvement measures comprising free early drop-off and late pick-up, staggered drop-off and pick-up times, and dwell time measures.

7.4. The Nature and Extent of the Previously Refused Proposal

7.4.1 The planning application previously refused by the Board under ABP Ref. PL 08.249011 (P.A. Ref. 16/647) was revised during the determination period of that application by the planning authority. Following a request for further information, the applicant sought:

Retention of:

(a) an increase in the number of students attending the Montessori House of Children from the 15 number places previously granted under planning register reference number 93/202467,

(b) revision in the hours of operation of the Montessori School to operate between 8.30 a.m. to 5.15 p.m., and

Permission for:

- (i) the change of use of the original “Bradgate” building to residential use,
- (ii) the extension (over two floors) and change of use of “Sallywood” from residential to childcare/Montessori school to accommodate 66 number childcare places,
- (iii) the reconfiguration of the site entrances to the properties known as “Sallywood” and “Bradgate” to facilitate a new combined parking and drop off area, and
- (iv) modifications to site boundaries, all located at “Bradgate” and “Sallywood”.

7.4.2 In response to the further information request, the applicant, by letter dated 23rd May, 2017, indicated that the number of children attending the premises at ‘Bradgate’ was 40 in the morning session and 30 in the afternoon. This letter also referred to ‘Bradgate’ reverting to residential use and to “Sallywood” being modified to provide three classrooms to accommodate a total of 66 children at any one time.

7.4.3 It is clear from the above what the material differences are between that which is proposed now and that which was previously refused by the Board. The current development seeks to remain at ‘Bradgate’ and accommodate 35 children per session, while that previously refused application sought to change the use of “Sallywood”, make modifications and accommodate 66 children at any one session. I, therefore, acknowledge that there are substantial differences between that previously proposed and the proposal now before the Board.

7.5. The Context of the Proposed Development

7.5.1 The context of the proposed development is a most significant consideration in assessing this proposal, in my opinion. The building in which the Montessori school is located was formerly a semi-detached dwelling, i.e. it was a house designed for single family use. It is bounded by residential properties. The scale, form and functionality of the curtilage of all such properties in this location, while accommodating gardens, have been designed to accommodate access, parking, and circulation needs for residents of such properties. These are critical components of the functioning of these residential properties at this location because Countess Road is a busy route leading to, and a short distance from, the town centre of Killarney, the foremost tourist town in the country. Undermining the function of this street cannot be seen to be sustainable or in the interest of the proper planning of this neighbourhood. The issue of the compatibility of appropriate land uses at such a location should not be underestimated. The necessity to ensure free flow of traffic on such a busy route, maintaining safe pedestrian access along the street's footways, and permitting safe access to and egress from houses are essential components of a successful functioning street leading to this town centre.

7.5.2 The land uses and functionality of this street have not altered over many years. In understanding its context, an understanding of the Board's original decision can be gauged. Imposing a restriction of 15 children to attend this premises was a practical and balanced approach to the context in which this development is set, i.e. a partly converted semi-detached house in a residential area which fronts onto a busy road that leads into the nearby town centre. While I can appreciate the desire to extend the opening hours of such a facility to accommodate the working day and to allow for two sessions over such a working day period, increasing the number of attendees is a wholly different issue in the context of this development. This is not a question of determining whether the facility can adequately accommodate the numbers of children proposed per session within the building, but rather the issue relates to how such a development functions in its locality.

7.6 The Proposal in the Context of Development Plan Provisions

7.6.1 I acknowledge that Objective SC-22 of the current Kerry County Development Plan encourages, promotes and facilitates the sustainable provision of quality affordable childcare facilities in accordance with national policy and relevant guidelines. Sustainability is foremost in complying with this objective. However, the key objective in the Plan relating to the proposed development which must be considered is Objective SC-23, which is as follows:

SC-23: *Permit childcare facilities in existing residential areas provided that they do not have a significant impact on the character or amenities of an area, particularly with regard to car parking, traffic generation and noise disturbance. Where proposed facilities relate to properties which have been designed and built as dwellings and are surrounded by other houses, a significant residential element should be retained.*

7.6.2 Having regard to the above, one cannot ignore that the proposed development is clearly in conflict with this objective. The proposed development, by seeking to retain the change of use of all of “Bradgate” from a dwelling to a Montessori school, will no longer have *any* residential element, notwithstanding the Plan requirement to have a *significant* residential element. The proposal is, thereby, completely contrary to the provisions of Kerry County Development Plan. I particularly note that the planning authority did not discuss or address this but rather made reference to other less relevant provisions.

7.6.3 Further to this, I note the provisions of the County Development Plan as they relate to car parking standards. It is a requirement under the Plan that 1 space per 4 children and 1 space per staff member is provided for childcare facilities. Nine on-site spaces alone would be required for children attending each session, leaving aside the required parking for staff. Such standards cannot be attained by the proposed development, which reflects its residential form on this street and the character of established development. I note again that the planning authority did not address the issue of parking standards. Notwithstanding there being an established facility, one cannot seek to ignore these critically important standards that, in my

opinion, are required to be met at this busy location on the approach to the town centre.

7.6.4 Further to the above, I note the provisions of the Killarney Town Development Plan 2009-2015. In referencing these provisions, I must first acknowledge the more recently adopted County Plan and would suggest that the provisions set out in the County Plan are the up-to-date objectives and standards that would be applicable to childcare facilities in Killarney and elsewhere throughout the county.

7.6.5 In the Killarney Plan the site is zoned 'Existing Residential'. The residential objective seeks to provide and improve residential amenities. A playgroup and crèche are uses that are permitted within this zone. Thus, the principle of the Montessori school is accepted, with due regard required to be given to providing and improving residential amenities.

7.6.6 Under the Plan's Development Management Standards, I note that the car parking standards for Playschools, Crèches are 1 space per employee and adequate set down/loading areas. There appears to be no details in the application on employee numbers. One would consider that "adequate set down areas" would imply provisions that allow cars to be safely parked to allow attending children to be escorted from cars to the premises and collected at the end of a session. It is evident that the ability to accommodate parking for parents, in the form of set down areas, would be extremely limited in the proposal now before the Board.

7.6.7 Under the same Plan's Development Management Standards, I note that childcare facilities are to be assessed on the following:

- The suitability of the site/premises for the type and size of the facility proposed, taking into account the effects on the existing amenities of the area.
- Adequacy of the vehicular and pedestrian access and parking provisions, including an adequate set down/drop off area.
- Provision of an adequate outdoor play area within the curtilage of the facility.
- Ease of accessibility for all.

7.6.8 While there is no issue arising in relation to the adequacy of play areas on the appeal site, the issue of the suitability of the size of the proposed development, vehicular and pedestrian access, parking and ease of accessibility are all issues of

serious concern arising from the proposed development, which will be addressed further in this assessment.

7.6.9 In conclusion on development plan provisions, it is evident that the proposed development is completely at variance with the provisions of the current Kerry County Development Plan set out in Objective SC-23.

7.7. The Proposed Development in the Context of the Childcare Guidelines

7.7.1 I note the provisions of the *Childcare Facilities: Guidelines for Planning Authorities*, published by the Department of the Environment and Local Government in 2001. In addressing development control and specific locations, the Guidelines refer to suitable sites for full day care facilities in houses as follows (Section 3.3.1):

1. *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 play area ...*

7.7.2 In addressing possible conditions to planning permissions, the Guidelines refer to residential content under Section 3.4.1 as follows:

In certain circumstances, it may be appropriate to attach a condition that would require some residential content be maintained in the premises. This would apply to planning permissions for change of use to childcare facilities in existing residential areas. It is not necessary that the owner-occupier be the resident. The reason for this condition is that the presence of totally commercial premises would detract from the amenity of the residential community. This condition would not be appropriate in certain, heavily trafficked through roads.

7.7.3 It is apparent from the above that the Guidelines emphasise the requirement for off-street parking and/or suitable drop-off and collection points for customers in a facility located in a semi-detached house and that retaining some residential content in existing residential areas is promoted. The latter is required because the Guidelines have expressly determined that the presence of totally commercial premises would detract from the amenity of the residential community. I acknowledge that the current Objective SC-23 of the Kerry County Development Plan is consistent with this

requirement and again note that there is no indication that the planning authority considered this issue when determining the application before it. It is furthermore clear that the issues of traffic, parking, access and impact on residential amenity are key considerations on the acceptability of a childcare facility in an established residential area.

7.7.4 It may reasonably be concluded that the proposed development, in failing to retain a residential component in the semi-detached house, runs contrary to the Guidelines. Concerns relating to traffic, parking, access and impact on residential amenity are addressed elsewhere in this assessment.

7.8. Traffic Impact

7.8.1 I note the current informal parking arrangements that occur outside of the properties along the northern side of Countess Road arising from the drop-off and collection of children associated with the Montessori school. This causes congestion, poses a traffic hazard, interferes with pedestrian movement, and is a nuisance for residents in the vicinity seeking to access and egress their properties.

7.8.2 The Stage 1 Road Safety Audit report submitted as part of the further information to the planning authority recommended:

Measures should be provided along Countess Road to ensure that pedestrians have continuous and uninterrupted access to the footway. This could include indented parking bays set within the northern footway, such that drivers are not required to mount the footway to park their vehicles.

7.8.3 The applicant's response to this has been to propose the development of four indented parking bays along the frontage of "Bradgate" and Sallywood". This feature of the proposed development would encroach both on the existing footpath on the public street and on the property of "Sallywood", which lies outside of the development site the subject of this appeal. This would bring with it the reduction in width of the public footpath at this location and, therefore, a reduction in the pedestrian infrastructure of this part of the street, as well as an intrusion into the residential property that is the neighbour of the existing school. Therefore, to accommodate this development it would require interference with an adjoining residential property in seeking to address problems that arise with the functioning of

the school which is on a separate holding. It would, thus, have a direct physical impact on another residential property on this street.

7.8.4 The proposed parking bays, as laid out, will in addition to the above encroach on vehicular access into and out of both “Bradgate” and “Sallywood” if the indented arrangement is intended to accommodate four vehicles as appears to be suggested. Not alone would a significant degree of conflict with access arise, but it is my submission that the traffic manoeuvres required to enter and exit these bays would cause significant congestion themselves and, most certainly at peak times on Countess Road, would interfere with the flow of traffic on Countess Road as cars attempt to negotiate safe parking in these parallel parking spaces. Once parked, the impact on pedestrians using the footpath and on traffic on the road is potentially significant as those getting into and out of cars would potentially affect movement along both the road and the footpath at these peak periods. I again question the potential to provide four spaces along the frontage of “Bradgate” and “Sallywood” while accommodating safe pedestrian access into and out of these properties at drop off and collection times. It is my opinion that the likely volume of traffic demanding parking for this school, seeking to accommodate the numbers of children proposed, would ultimately result in drivers continuing to mount the footpath to park on it to collect their children. This would remain a most attractive option in this most constrained location. This furthermore would undoubtedly impact on sightlines and vehicular turning movements from established houses nearby that are affected, while clearly interfering with the free flow of traffic on the road.

7.8.5 In addition to the above, it is my submission that the provision of five spaces within the curtilage of the school will not be particularly attractive to parents dropping and collecting children on this busy road due to the tight site constraints, requirements for awkward manoeuvres within the curtilage, narrow access, conflict with the utilisation of the parking bays, and due to the convenience of being able to pull up on the footpath outside of the premises, notwithstanding the existence of double yellow lines along the road edge. The domestic scale of this semi-detached house and its curtilage greatly constrain the potential to accommodate the nature of development that exists and, in my opinion, it would fail to adequately and safely accommodate the scale of operation now proposed.

7.8.6 I note that the applicant lends significant weight in the application to recent operational improvement measures. I submit that the Board cannot reasonably make a decision on this application based upon these measures, measures that are unenforceable and which are clearly at the discretion of parents to take up the choice of when to drop off and when to collect their children. Periods of congestion at peak times coinciding with drop-off and collection would will remain. The Board, therefore, can only reasonably determine this application based upon the development being assessed as a Montessori school that is functioning to the capacity proposed to be accommodated and to consider the outcomes arising therefrom.

7.8.7 I note once again the significant constraints that impose on allowing a significant intensification of development at this school in the interest of sustainability. “Bradgate” is a residential property, part of which is authorised to be used as a Montessori school. It is in a residential area and must respect its context in terms of its impact on residential amenity. In considering its functionality, how it accommodates access, parking and traffic movement is pivotal to determine any intensification of use at this property. Despite the existence of double yellow lines along the road frontage that do not permit parking at any time, these restrictions are ignored and parking associated with this school includes parking on the public footpath. This would undoubtedly continue with the proposed development. The residential scale of the semi-detached house and the layout of the curtilage will not permit the provision of adequate numbers of off-street parking spaces. The proposed indented parking bays will not address the parking deficiencies and, in my opinion, will potentially adversely impact on traffic and pedestrian safety at this location, while inhibiting access into the property itself. Overall, I consider that it is reasonable to conclude that the proposed development would constitute a serious traffic hazard.

7.8.8 Finally, it is my submission that the logic of the Board’s original decision to limit the number of attendees at this school remains. I would be greatly concerned about the precedent that would be set by permitting the change of use of all of the dwelling at this location to a commercial premises. With the encroachment into “Sallywood” resulting from the development of parking bays as proposed in this application, there clearly would be potential to consider further development of this nature at that location or indeed elsewhere along the street. Being close to the thriving town centre

would bring with it increasing pressure for alternative uses. The protection of the amenities of residents should be paramount at this residentially zoned location.

7.9. Impact on Residential Amenity

7.9.1 Having regard to the scale of the proposed operation of the childcare facility, the traffic to be generated and the parking required, as well as the context of the development in a residential area on a busy road leading into Killarney's town centre, in my opinion, there can be no doubt that the proposed development would cause significant nuisance to the residents of Countess Road in the vicinity of this school arising from access to the facility. The proposed development would have inadequate provisions for parking off this busy road. The parking bays and forecourt parking would lead to difficult turning manoeuvres that would undermine the movement of traffic on the road and would undermine safety on the footpath. I have no doubt that the existing footpath would remain used for set down and collection purposes. The interference for those residents trying to enter and exist their properties at peak times in the vicinity would constitute a significant nuisance.

7.9.2 With regard to noise disturbance, I note that the reason for the restriction on the scale of the original proposal by the Board under PL 63.091650 was in the interest of clarity and orderly development. This restriction on scale was, therefore, considered to be required to attain orderly development in this residential location. The introduction of a further 20 children at a session would clearly significantly intensify activities at this residential area. However, returning to the school's context, I first note that a lot of activities would mainly be indoors and that the potential for disturbance may likely relate to outdoor activities. In the context of the busy Countess Road, I consider that the additional noise disturbance that may arise from periodic use of the outdoor play facilities would not constitute significant noise disturbance over that experienced from the busy road.

8.0 Recommendation

8.1. I recommend that permission is refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The site of the proposed development is located in an area subject to the zoning objective 'Existing Residential' in the current Killarney Town Development Plan, where the objective is to provide for and improve residential amenities. Furthermore, it is an objective of the Kerry County Development Plan 2015-2021 to permit childcare facilities in existing residential areas provided that they do not have a significant impact on the character or amenities of an area, particularly with regard to car parking, traffic generation and noise disturbance, and to require the retention of a significant residential element where proposed facilities relate to properties which have been designed and built as dwellings and are surrounded by other houses (Objective SC-23). Having regard to the proposed significantly increased scale and intensification of the facility and to the removal of all the residential use within "Bradgate", it is considered that the proposed development would seriously injure the amenities of residential property in the vicinity, particularly by reason of incompatible on-street parking and traffic generation, and it would directly conflict with the Development Plan objective by the removal of the residential use in the building. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the subject site on the heavily trafficked (both vehicular and pedestrian) Countess Road, immediately adjacent the Countess Road/Rookery Road junction, and the significant deficiency in the provision of on-site car parking, it is considered that, notwithstanding the provision of parking bays across the frontage of "Bradgate" and "Sallywood", the proposed development would generate conflicting traffic movements and on-street parking and would, thereby, endanger public safety by reason of traffic hazard

and obstruction of road users. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

4th June 2019