



An
Bord
Pleanála

Inspector's Report

ABP-305000-19

Development	Permission to construct new access/entrance porch and to convert one room in existing dwelling to new pre-school room
Location	Little Einstein's Playschool, Kilronan, Butlerstown County Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	19316
Applicant(s)	Susan Molloy
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Pat Pender.
Observer(s)	None
Date of Site Inspection	29 th of November 2019
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site is located in a rural area south of the outer ring in Waterford City. It is located in a townland called Kilronan. It is a rural area with a large number of one off houses.
- 1.2. The site is 0.36Ha, it consists of a one-off dwelling and a separate creche facility with associated carparking and an enclosed play area to the rear.
- 1.3. The third-party appellant resides in the neighbouring dwelling to the east. There is a row of mature leylandii between both properties and a timber fence.

2.0 Proposed Development

- 2.1. The proposed development consists of converting one room in the dwelling on site as a pre-school room, and to construct a hallway to connect the new room to the existing pre school which is currently detached from the main dwelling.
- 2.2. There is no addition to the capacity of the current pre-school, the two rooms will separate two age groups within the preschool, and the room conversion will cater for the 6months to 3.5 years age group, and the 3.5-5 year old will remain in the existing building.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted planning permission for the development 2nd of July 2019 subject to 6No. conditions.

Condition No. 2 specified the attendance at the pre school will not exceed 17No. children at any one time as stated in the parent permission PL.243263.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

- The use of the converted garage was permitted under PL24.243263

- The main door of the existing pre school opens out onto the carpark area
- Additional room is to provide more security and to divide the ages to be fully compliant with TUSLA
- Non intensification on site
- Condition to require the number of children on site to be 17 in line with previous permission.

3.2.2. **Other Technical Reports**

There were no relevant internal reports.

3.3. **Prescribed Bodies**

There were no referrals to prescribed bodies.

3.4. **Third Party Observations**

The third-party appellant who resides next door to the pre-school objected to the proposed development on the following grounds:

- All conditions of planning reg. No. 13/169 should be complied with
- Letters of consent for sightlines
- The conversion of the bedroom has already occurred.
- Leylandii between the sites have been damaged.

4.0 **Planning History**

13169 (PL24.243263)

Susan Costello granted planning permission for the indefinite retention of a preschool.

5.0 Policy Context

5.1. Development Plan

Waterford County Development Plan 2011-2017 where the site is zoned **Agriculture**
To provide for the development of agriculture and to protect and improve rural amenity.

5.2. Natural Heritage Designations

Special Area of Conservation: Lower River Suir SAC is located 5km north of the site

5.3. EIA Screening

Having regard to the brownfield nature of the subject site, together with the modest scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Mr. Pat Pender, the third party appellant resides on the adjoining site to the subject development. A summary of the relevant planning issues raised on appeal is as follows:

- The planning history of the facility reveals two previous refusals for the pre-school, under reference 09/514 and 09/685
- Planning Condition 2 is not enforced. The planning context is 17No children only and not 22No. as stated by the applicant. The Little Einstein Facebook page shows 24, 26, 27 and 28 children at the school.

- A child can get away from the minder even if the porch is erected, you will still be exiting onto a car parking area. There are children regularly playing in the carpark area.
- Separating the children into two different groups will reduce peer and collaborative learning. There are now 3No. staff, and the splitting of the classes is about expansion rather than educational needs. Of note a nearby preschool, the Butlerstown Playgroup has not applied for planning permission for a second preschool room.
- The facility offers child minding from 8am -5pm, after school service and summer camps. A condition of the permission is that the facility would cease after 2pm, and afterschool is a clear breach of planning permission.
- The proposed porch will reduce the number of parking spaces from 6No. to 5No. Given the increase in children attending and the staff levels, there are 31No. carparking spaces required not 6No. spaces.
- The drawings show a play area to the rear of 135sq.m. however the drawings are not clear. The rear playing area is closer to the appellants boundary which will exasperate current noise levels.
- The signage at the entrance has no planning permission, the illuminated sign is a traffic hazard.
- The hedging along the roadside has been cut back since 2015 and weed killer has been applied to the same area suggesting poor sightlines.
- The leylandii along the eastern site boundary has had its branches cut back, with extensive damage to the trees. The timber fencing panels provide very little soundproofing.

6.2. Applicant Response

- The applicant provides a vital neighbourhood service and has done for over 10 years. The children who attend her pre school go on to attend the local national school only one kilometre from the site. The children in the national school have siblings in the preschool.

- The number enrolled at the preschool is 20-24 and this has not increased since 2009. All the children do not attend the same day. The appellant has used photographs from Little Einstein's Facebook page to prove his case instead of knowing the facts. The photographs submitted include a Class photo from 2014 of all the children that attended that year, and not each day. The photo from 2017 is the Saint Bernardos Charity Day, and photo 3 is Induction Day 2017, etc. All of the photographs submitted have been taken out of context, and the appellant has made outrageous claims without any facts.
- The appellant has no understanding of how a pre-school operates. Children need a sleep area as they can arrive tired to the creche, and some children need a quiet environment as they are noise intolerant, sometimes segregation is necessary for the children's wellbeing. The fact the other preschool in the community did not apply for a second room is irrelevant.
- The appellant has made slanderous claims in his appeal regarding children in her home.
- There is no expansion of the play area. No noise levels have been submitted by the appellant. It is inconceivable that 17No. small children playing outside for a short period of time could be a nuisance in terms of noise. The covering of the play area protects it from inclement weather.
- Issues relating to a bathroom extension and the Fire Certificate are a matter for Waterford Co. Co.
- The sign is not illuminated and not a traffic hazard.
- The applicant has not interfered with the appellants roadside hedgerow which has not been maintained and there are dangerous sightlines from his own property.
- The applicant cut large overhanging branches of leylandii on her side of the property. Some storms have blown over a number of the trees and these have not been replaced. The timber fence is to provide privacy to the herself and the children.

6.3. **Planning Authority Response**

There was no further comment from the planning authority regarding the appeal submission.

7.0 **Assessment**

- 7.1 The existing preschool on site was granted under planning references 13/169 (ABP Ref PL24.243263) which included a condition that the attendance at any time would not exceed 17No. children. The current proposal is to convert a room within the dwelling house on site to a preschool room and construct an enclosed corridor between the existing preschool room and proposed preschool room. The principle of the development is acceptable given the permitted development on the site and the modest nature (14sq.m.) of the proposal. It is not intended to increase the capacity of the school, but to provide better facilities for the children currently attending the preschool, whereby the older and the younger children can be separated, in order for some children to sleep and provide a less noisy and more soothing environment for the younger children.
- 7.2 The third part appeal is from the neighbouring dwelling to the east, and in my opinion the bulk of the grounds for appeal are unfounded or require consideration by the planning authority and not the Board. Planning enforcement issues relating to alleged non-compliance with conditions, alleged unauthorised extension to dwelling, alleged unauthorised sign and a fire escape, are matters beyond the remit of the Board, and should be raised with the appropriate section of the planning authority.
- 7.3 There is ample carparking space and turning areas to cater for the development, and the proposed corridor will not result in a loss of carparking. The area to the front of the preschool is a drop-off and collection point only. The new proposal will ensure there is no direct access onto the turning area. There is an enclosed play area to the rear of the preschool.
- 7.4 I note first party response to the appeal which outlines the context of each photograph submitted by the third party. The majority of the photographs were taken from the 'Little Einstein's facebook page and used out of context by the appellant.

For this reason, I consider some of the claims made by the appellant are unfounded and not based on proper facts or technical data. The outdoor play area was covered to the rear in 2017, to keep the ground dry and to prevent further use of the car parking area to the front. The number of children on the premises does not exceed 17No. at any time, and although there maybe 24-26 enrolled at the preschool in any year, these children are not all on the premises at the same time. There are different services provided in terms of the children's ages. A lot of the preschool children have siblings in the local national school, 1km east of the site. The play school operates form 9am -1pm, and then there is after school care. There are 3No. staff at Little Einsteins, one of which is the applicant and another is the applicant's sister. They also care for family members at the preschool. The claims made by the third party regarding noise disturbance would appear to be greatly exaggerated. The children would not be outside for long periods of time, they are pre-school children, and they are unlikely to materially alter the prevailing ambient noise levels in the area. I do not consider a noise control condition is appropriate in this instance. The proposal is not an intensification of the permitted preschool on site, but it is an enhancement of the existing facilities.

7.5 Appropriate Assessment

Having regard to the nature and scale of the proposed development located within an existing residential curtilage resulting in no material impact to existing services, and 5km from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. The Planning Authority's decision should be upheld in this instance.

9.0 Reasons and Considerations

Having regard to the existing use on site, the planning history of the site, the modest nature of the proposed development, it is considered subject to the compliance with

the conditions outlined below, the proposed development would not injury residential amenities, or impact on traffic safety, and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The number of children to be accommodated within the existing and proposed facility shall not exceed 17No. at any one time in order to comply with the parent planning permission for the proposed development, granted under planning appeal reference PL24.243263.

Reason: In the interests clarity.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Caryn Coogan
Planning Inspector

05/12/2019