



An
Bord
Pleanála

Inspector's Report

ABP-305313-19

Development	Single storey building in the rear garden, comprising of a Montessori with entrance to side of house
Location	56A, Shackleton Way, Lucan, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD19A/0091
Applicant(s)	David and Frances Carr.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party v. Decision
Appellant(s)	<ol style="list-style-type: none">1. Caroline Brady, Edel Corr & Others2. Angela & Thomas Gallagher
Observer(s)	<ol style="list-style-type: none">1. Mahmood Ahmad and Hajra Mahmood.2. Shackleton Lucan Owners Management Company CLG.

Date of Site Inspection

14th February 2020.

Inspector

Susan McHugh

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1.0 Site Location and Description

- 1.1. The subject site is located in an established residential area of Dodsboro, to the west of Lucan, County Dublin.
- 1.2. The Dodsboro Cottages estate is characterised by two storey semi-detached houses with very long rear gardens. This estate abuts the new residential area of Shackleton Park which is characterised by terraced housing and which forms part of the Adamstown Strategic Development Zone (SDZ).
 - 1.2.1. The appeal site lies to the rear of an existing house no. 56 Dodsboro Cottages, which itself has already been extended. The principle of backland development is well established, with a number of rear garden sites within the Dodsboro estate having been subdivided and developed for individual detached houses, of varying styles, including on both sides of the appeal site. These include house no. 55A Dodsboro Cottages to the west (and appellant in the appeal) and 57A Dodsboro Cottages to the east.
 - 1.2.2. Access to these backland sites is via the Shackleton Park development with entrances from Shackleton Way.
- 1.3. The northern boundary of the appeal site which abuts the rear garden of 56 Dodsboro Cottages is not defined. The boundary to the east with 57A Dodsboro Cottages is defined by timber panelling, to the south with Shackleton Way by temporary security fencing and to the west with 55A Dodsboro Cottages by a concrete wall.
- 1.4. The appeal site has a stated site area of 0.0862ha.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a single storey building in the rear garden (of an already permitted but yet to be constructed house), located in the rear garden of No. 56 Dodsboro Cottages.
- 2.2. The proposed Montessori has a stated floor area of 56sqm and includes a flat roof with a stated height of 3.125m. There are two windows and glazed entrance door on the southern and western elevations. Details of finishes are not indicated.

2.3. Vehicular access to the appeal site is via the permitted entrance with pedestrian access along the side of the permitted house. Two car parking spaces to serve the proposed Montessori are located in the front driveway.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to **grant** planning permission 06/08/2019 subject to 10 no. conditions. Conditions of note include;

Condition No. 2: Maximum of 3 car parking spaces to serve the existing house and proposed Montessori.

Condition No. 3: No. of children per session not to exceed 22.

Condition No. 4: Hours of operation restricted to 8:50am to 4:00pm on weekdays.

3.2. Planning Authority Reports

3.2.1. Planning Reports (dated 09/05/2019 and 06/08/2019)

The **1st Planners Report** is the basis for the Planning Authority decision. It includes;

- In principle the use is acceptable.
- *Residential Amenity* – Proposed activity would be subordinate to the residential use of the permitted dwelling, notes there may be an increase in noise but would not be out of place in a residential area. Considered as a home-based economic activity, the site is in principal suitable to accommodate the proposal having regard to the size and scale of the site and dwelling. Recommends further information in relation to the specific nature of the facility. Notes CDP provision for home-based economic activity which will generally be permitted on a short term or temporary basis to enable an ongoing assessment of any impact of the activity on residential amenity.
- *Layout and Design* - Permitted rear garden is 16.6m long and on average 10.7m wide, leaving approx. 85sqm of rear garden with the proposed structure, in relation to

the permitted house this is considered acceptable. The height of the proposed structure is acceptable.

- *Roads and Access* – Notes Roads report and recommends further information in relation to the proposed number of staff and children or operating times of the proposed Montessori, in addition to clarifying the reason for providing additional car parking and any changes to the permitted front boundary wall including the width of the access.

The **2nd Planners Report** can be summarised as follows;

- Notes that proposal is a sessional facility with staggered opening times to alleviate traffic issues at pick-up and drop-off times. Proposed that the facility be operated by the applicant with a resident relation.
- No rationale provided for the additional car parking spaces to the front of the property, recommends a maximum of 3 car parking spaces be provided to serve both the existing house and the proposed Montessori.
- The response to the request for further information was acceptable.

The recommendation was to grant permission.

3.2.2. **Other Technical Reports**

Roads Department: Report dated 10/04/2019 recommends additional information. No further report.

Water Services: Report dated 17/04/2019 recommends additional information. Report dated 17/07/2019 recommends no objection.

Environmental Health: Report dated 02/05/2019 recommends no objection subject to requirements.

3.3. **Prescribed Bodies**

Irish Water: Report dated 30/04/2019 recommends further information.

3.4. Third Party Observations

A number of submissions were lodged with the planning authority from the following party's;

- Cllr. Vicki Casserly on behalf of Philip Monaghan Dodsboro Cottages.
- Angela & Thomas Gallagher 55A Dodsboro Cottages.
- Andrius Zygmanta and Jurgita Zygmantiene 8 Shackleton Way.
- Edel Corr and Caroline Brady 4 Shackleton Place.
- Sonia Santon and Rui Teixeira 7 Shackleton Place.
- Ashling Voakes and Ronan Dore 1 Shackleton Green.
- Cairn Homes Properties Limited 7 Grand Canal, Dublin 2.

Objections to the proposal received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the third party appeals and are summarised in section 6 below.

4.0 Planning History

Appeal Site

P.A.Reg.Ref.SD19A/0091 ABP-305251-19: Invalid planning appeal 11/09/20019.

P.A.Reg.Ref.SD18A/0320: Permission **granted** 06/11/2018 to divide site at 56 Dodsboro Cottages, into two plots, erect a 5 bedroom, detached 3 storey house in rear the rear garden of site, new boundary walls, 2 car spaces to front of house and all associated site works. The entrance to the new house exits onto Shackleton Way. Applicants David and Frances Carr. Condition No. 6 states;

'The house shall be used as a single dwelling unit and shall not be sub-divided by way of sale or letting (including short-term letting) or otherwise nor shall it be used for any commercial purposes.

Reason: To prevent unauthorised development.'

56 Dodsboro Cottages

P.A.Reg.Ref.SD19B/0076: Permission **granted** 26/07/2019 for first floor, front side and rear extension to David and Frances Carr.

P.A.Reg.Ref.SD18B/0375: Permission **granted** 13/12/2018 to demolish existing single storey extension at rear and side of house, erect new ground floor extension to side and rear of house, erect a new first floor extension at rear comprising of bedroom & en-suite and all associated site works to David and Frances Carr.

5.0 Policy Context

5.1. South Dublin County Council Development Plan 2016-2022

The site is zoned '**RES**: To protect and/or improve residential amenity'.

Chapter 2 of the Plan focuses on housing and sets out the planning authority's policies in respect of providing sustainable residential development.

Chapter 3 deals with community infrastructure, including early childhood care and education.

Policy C8(a): It is the policy of the Council to support and facilitate the provision of good quality and accessible childcare facilities at suitable locations in the County.

Policy C8(b): It is the policy of the Council to require the provision of new childcare facilities in tandem with the delivery of new communities'.

C8 Objective 3: 'To support the provision of small scale childcare facilities in residential areas subject to appropriate safeguards to protect the amenities of the area, having regard to noise pollution and traffic management'.

Chapter 11 deals with implementation.

5.2. National Policy

5.2.1. National policy documents which form the strategic context for the proposed development include:

- Guidelines for Planning Authorities on Childcare Facilities, 2001.

5.3. **Natural Heritage Designations**

There are no natural heritage designations in the immediate vicinity of the site.

5.4. **EIA Screening**

Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, 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 No.1**

6.1.1. The Third-Party appeal against the decision of the planning authority to grant permission was lodged by the following party's;

- Caroline Brady and Edel Corr 4 Shackleton Place.
- Sonia Santos and Rui Telxeira 7 Shackleton Place.
- Jurgita Zygmantiene and Andrius 8 Shackleton Way.
- Ashling Voakes and Ronan Dore 1 Shackleton Green.

6.1.2. The appeal was accompanied by a letter from Petra Management Company in relation to parking management within the Shackleton Park development, confirmation that the address 56A Shackleton Way does not exist, and a letter from the manager of a large childcare facility and issues arising. The grounds of appeal can be summarised as follows;

- Submit that South Dublin County Council (SDCC) did not give due regard to all objections submitted.
- *Detracts from Residential Amenity* - Scope and design are at odds with the residential development at Shackleton Park, private residential area not suitable for commercial development, parking facilities are inadequate, which will lead to traffic issues. Refer to P.A.Reg.Ref.SD18A/0320 and restrictions of use under Condition

No. 6 of that permission. Assert that the right of way granted by Cairn Home Properties Ltd is only through Shackleton Park, parking is not permitted, and the right of way is not indicated in the application. Dispute that a childcare facility for 44 children daily is small scale or complies with Section 3.10 Policy 8, Policy C8 (a), Policy C8 (b) C8 Objective 3 or considered a 'Home Based Economic Activity'. The proposed new build is a standalone commercial development, and not an extension to an existing house, the assessment by the P.A. was therefore flawed. Sole access is via the adjoining SDZ and impacts on the SDZ not considered.

- *Unacceptable noise pollution/visually obtrusive* – Standalone single storey new build commercial property out of character with the aesthetic of Shackleton Park. Residents in the adjoining properties on Shackleton Way and Shackleton Place work from home, work night shifts and various shift patterns. Noise pollution will have a detrimental impact.
- *Traffic Congestion* – Proposed development is located at a T junction with a narrow road width of c.4.95m, with no area for cars to stop and will result in traffic congestion and safety issues within Shackleton Way and Shackleton Place. There has been no adequate consideration to the implications for traffic and road safety by the applicant or SDCC. Reference to Board refusal of permission under PL06F.126725 on the basis of traffic hazard.
- *Impact on Carparking in privately owned development* – There is no car parking/drop-off and pick up provision within the curtilage of the site, which will result in on-street parking in the vicinity of the site and creation of traffic congestion.
- *Traffic Safety* – Risks to residents and children of Shackleton Park given location of proposed development, lack of footpaths or drop off area. The staggering of times by 10min intervals will not alleviate these issues and are unenforceable. No Traffic Impact Assessment has been submitted and invalidates the application.
- *Health and Safety* - No provision for disabled drivers or passengers, fire assembly point not indicated, no open space.
- *Contrary to County Development Plan* – The backlands of Dodsboro Cottages intended for residential homes, contrary to Condition No. 6 of

P.A.Reg.Ref.SD18A/0320. Submit that Sections 2.4.1, Policy H18 Residential Extension, 11.3.3, 11.3.10. and 11.3.11 do not support the proposed development.

- *Invalid Public Notice* – Not on the required yellow background.
- *Revised Public Notice* – Should have been required given the extent and significance of further information submitted. The applicant is not resident in the property and the application is not for an ‘extension’ but for a new build standalone commercial property.
- *Property Address* – Planning application and supporting documents do not identify the property on which the planning permission is sought. 56 and 56A Shackleton Way do not exist. As part of further information received in relation to item 3, revised plans are in relation to SD19B/0076.
- *Adequate Childcare Facilities* – Submit that Cairn Homes are providing adequate childcare facilities in the catchment area, and there is a pre-school facility in the nearby Scoil Mhuire school.

6.2. Grounds of Appeal No. 2

6.2.1. A Third-Party appeal against the decision of the planning authority to grant permission was lodged by Angela and Thomas Gallagher, 55A Dodsboro Cottages. The grounds of appeal can be summarised as follows;

- *Assessment by P.A.* – Does not address issues raised in submissions.
- *Proposed Development* – Will take away right to natural light, will obstruct view, and depreciate the value of their property.
- *Traffic congestion* – Narrow access road is still under the ownership of Cairn Homes and residence of Dodsboro Cottages are not allowed to park on the access road.
- *Car Parking* – Potential blocking of the right of way for residence of Shackleton Way and driveways, which is problematic given that some residents work shift work.
- *Noise Pollution* – During operating times 8.50am through to 4.00pm Monday to Friday.

- *Backlands of Dodsboro Cottages* – Intended for residential homes and not commercial development. Queries the address as the house permitted under P.A.Reg.Ref.SD18A/0320 has not yet been constructed.
- *Drawing Dimensions* – Are not correct and contend that the proposed house and proposed Montessori will not fit on the site.
- *Health and Safety* – No fire assembly point indicated on drawings.
- *Home Based Economic activity* – Contend that the applicant will not be living in the proposed house, and that a relative of the applicant will be the owner of 56A Dodsboro Cottages once constructed.
- *Child Care Facilities* – Cairn Homes stated in their planning application that they have and will provide adequate childcare facilities in the catchment area.

6.3. Applicant Response

None.

6.4. Planning Authority Response

Confirmed its decision – refers to planners report.

6.5. Observations

Two observations to the appeal were submitted from the following;

- Mahmood Ahmad and Hajra Mahmood, 9 Shackleton Way.
- Shackleton Lucan Owners Management Company CLG C/o Petra Management.

Issues raised can be summarised as follows;

Mahmood Ahmad and Hajra Mahmood, 9 Shackleton Way.

- *Health and Safety* – Negative impact on traffic safety, given narrow T-junction and narrow road linking Shackleton Place and Shackleton Way, where two oncoming cars can cross each other. Shackleton Way is an entry/exit point for roads linked to

it. The location makes it unsafe due to non-existing footpaths, collection/drop-off facilities and unsafe for children.

- *Right of Way to Dodsboro Cottages* – Right of Way from Shackleton Way for the Dodsboro Cottages is only for the purpose of a private dwelling and does not allow parking.

Shackleton Lucan Owners Management Company CLG C/o Petra Management

Traffic Management and Parking – Welcomes the addition of crèche facilities in the area but has serious concerns regarding the likely negative impact of the proposed development on traffic management and parking in the area. Cites issues relating to limited parking availability on Shackleton Way for visitors to the development. This has led to visitors parking either on the roadway, which was not designed for this purpose, and is resulting in restricted access for refuse collection vehicles serving the site, and potential access difficulties for emergency vehicles. Notes no set down facility for parents dropping off children at times of high demand.

7.0 Assessment

7.1.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Principle of Development
- Access Parking and Traffic Safety
- Impact on Residential and Visual Amenity
- Other Matters
- Appropriate Assessment

7.1.2. I refer the Board to the most recent planning history on the appeal site under P.A.Reg.Ref.SD18A/0320 which was granted permission in November 2018 to subdivide the site at 56 Dodsboro Cottages, into two plots, and erect a 5 bedroom,

detached 3 storey house in rear the rear garden of site, with an entrance from Shackleton Way. This permission has not yet been implemented on site.

7.1.3. The proposed Montessori is to be located to the rear of the permitted but not yet constructed house on site.

7.1.4. I also draw the Boards attention to the naming and numbering of the existing houses constructed on these backland sites, which include the existing house no. within Dodsboro Cottages and the letter A, although they are accessed via Shackleton Way.

7.2. Principle of Development

7.2.1. The site is zoned 'RES' as per the South Dublin County Council Development Plan, with a stated objective to 'To protect and/or improve residential amenity'. Childcare facilities are open for consideration under this zoning. Based on development plan policy for the RES zoning, residential and crèche uses are compatible land uses under this zoning and are therefore consistent with the zoning objective for the area.

7.2.2. Policy C8(b) of the South Dublin County Council Development Plan states that 'it is the policy of the Council to require the provision of new childcare facilities in tandem with the delivery of new communities'.

7.2.3. Government policy is to increase access to childcare and I note the extension of the ECCE scheme and Circular letter PL3/2016 which refers to 'Childcare facilities operating under the Early Childhood Care and Education Scheme (ECCE)'. This Circular states that state Subsidisation of childcare is expected to increase over the next ten years which, couples with forecast economic and population growth, is expected to lead to increased demand for childcare spaces. The Circular also states that consideration of planning applications relating to childcare facilities should solely focus on planning related considerations that fall within the remit of the Planning and Development Act 2000, as amended, in the determination of such planning applications.

7.2.4. The appellants contend that the proposed use in a standalone building constitutes a commercial use in a residential area, as opposed to a home based economic activity. A 'home based economic activity' is defined in the South Dublin County

Development Plan as 'small scale commercial activities carried out by the occupier of a dwelling, such as being subordinate to the use of the dwelling as a residence'.

- 7.2.5. In this regard, I note the scale and nature of the proposed development which is for a small scale childcare facility. The single storey building has a floor area of 56sqm will cater for a maximum number of 22 children per session, with one session in the morning and a second in the afternoon. Hours of operation are from between 8:50am and 4.00pm Monday to Friday. In this regard conditions no. 3 and 4 of the notification of decision to grant permission refer explicitly to restrictions in relation to numbers of children and hours of operation.
- 7.2.6. I do not therefore, consider the scale and intensity of this use to be excessive, and is in my opinion an appropriate use in its context within an expanding residential area. Any increase in capacity or extension of opening hours would be the subject of a future planning application.
- 7.2.7. The appellants contend that as the proposed development is a standalone building and not an extension to an existing residential property, which is contrary to Condition No. 6 of the previous permission granted under P.A.Reg.Ref.SD18A/0320 which refers to a restriction on use.
- 7.2.8. I have had regard to the wording of this condition, and note that it refers to the house only, and I am satisfied that the current proposal should be assessed on its own merits.
- 7.2.9. There is a reference in the appeal to the future operators of the Montessori who may not be resident in the permitted house, which would instead be occupied by a relative of the applicant. No evidence to substantiate this assertion has been provided and therefore, I consider this assertion to be mere speculation on behalf of the appellants at this time.
- 7.2.10. I would note that the application as lodged clearly indicates the location of the permitted dwelling and it is in this context that I am satisfied that the proposed use is ancillary to the principal use of the site for residential purposes. I also consider it appropriate to attach a condition that links the proposed Montessori to the permitted house.

- 7.2.11. I note the reference by the appellants to the intention of the developers Cairn Homes to provide adequate childcare facilities in the area and also to an existing pre-school facility in the nearby school. However, I would also note that planning policy encourages a range of providers including playgroups, crèche, Montessori and other facilities. It clearly envisages a range of facilities of various scales.
- 7.2.12. In this context and given the nature and small scale of the proposal, I am satisfied that the proposed development is acceptable in principle, and that there is no basis to this grounds of appeal.

7.3. Access Parking and Traffic Safety

- 7.3.1. Concern has been raised by the appellants in relation to access car parking and traffic safety, and in my opinion this is the crux of the appeal.

Access

- 7.3.2. It is proposed to provide access to the appeal site from the already permitted entrance to the permitted house granted planning permission under P.A.Reg.Ref.SD18A/0320. This access is from Shackleton Way, which forms a T junction with Shackleton Place. Shackleton Place connects to Shackleton Drive, which runs east west and is the main access road into the Shackleton Park development. Shackleton Way also serves a number of other cul de sacs that have short pedestrian linkages to Shackleton Drive, and further residential development to the south.
- 7.3.3. I do accept that because of the layout of Shackleton Park that vehicular access to the proposed development is likely to be predominantly via Shackleton Place. I would also note however that vehicular access is also possible from the western end of Shackleton Way which connects to the western arm of overall Shackleton Park development.
- 7.3.4. However, given the nature of the proposed development and the location within a large residential development, I consider that pedestrian access is an attractive and realistic option, particularly given the various pedestrian routes available.
- 7.3.5. Pedestrian access to the proposed Montessori would then be via the side of the permitted house. I note from the drawings submitted that there are no side gates

indicated. In the event that the Board are minded to grant permission I recommend that a condition be included in relation to this detail.

Parking

- 7.3.6. Concern has been raised in relation to the impact on existing car parking within the Shackleton Park development and lack of provision of a drop-off and pick up area. The concern is that this will result in on-street parking in the vicinity of the site and give rise to traffic congestion.
- 7.3.7. Firstly, I note that it is proposed to provide 2 car parking spaces to serve the proposed Montessori in the front driveway of the permitted house. This car parking provision is in addition to the two permitted car parking spaces to serve the permitted house.
- 7.3.8. The Transport Department of the planning authority notes the over provision of carparking as the Development Plan requirement for a crèche is 1 space per classroom. They also note that the car parking layout as indicated would block access to the 2 spaces to serve the house, but also consider that the proposed Montessori is a home business and may not require additional parking. Concern is also raised in relation to the provision of a set-down/pick-up may result in an excess of reversing manoeuvres onto the road at this location.
- 7.3.9. The Transport Department recommended additional information in relation to the number of staff and children proposed and operating times, clarification on the reason for providing additional car parking and indication of any changes to the permitted boundary wall including the width of the vehicular access.
- 7.3.10. In response the applicant indicated staggered operating hours with a facility for a total to 44 children overall, and also state that currently relations of the applicant live in the house and plan to continue to do so, and that the applicant and one of the residents will jointly run the facility.
- 7.3.11. Notwithstanding the absence of a final report from The Transportation Department the P.A. considered that one additional car parking space is sufficient and meets development plan standards, and that the provision of a total of 3 spaces addresses the concerns of the Transportation Department in respect to manoeuvrability of cars in and out of the driveway. I would concur with this assessment.

7.3.12. I accept that the roadway along Shackleton Way is relatively narrow, and that cars may park on the adjoining footpaths, but I consider this to be a management issue for the management company of the estate. I also consider that the staggered drop off and collection times throughout the day will help to minimise any disruption caused.

Traffic safety

7.3.13. Concern has been raised in the appeals and observations in relation to traffic safety particularly given the location of the appeal site close to a T junction, and the narrow width of the roadway along Shackleton Way. It has also been suggested that a Traffic Impact Assessment should be carried.

7.3.14. I note on the day of my site inspection mid-afternoon on a weekday that traffic volumes and speeds along Shackleton Way and Shackleton Place were low. In my opinion the volume of traffic generated from the proposed development will be minimised given that patrons are likely to be local and within walking distance of the proposed development. In my opinion, the existing road layout, and parking arrangements contribute to traffic calming in the vicinity of the appeal site, and that the issue of traffic safety has been overstated in this appeal.

7.3.15. The appellants refer to a Board decision under PL06F.126725 to support their argument in relation to on-street parking which presents a traffic hazard. This development refers to the 12th Lock Hotel on the Royal Canal, Castleknock, and is therefore, not relevant to the current appeal in terms of use or context.

7.3.16. I am satisfied, therefore, that the proposed access and car parking arrangements are acceptable and will not give rise to a traffic hazard.

7.4. Impact on Residential Amenity

7.4.1. Concern has been raised by residents in the area in relation to noise pollution from the proposed Montessori, and in particular by the residents of the adjoining house to the west in house no. 55A. I have considered this issue and would accept that there will be an increase in noise associated with the proposed use. However, this also needs to be balanced against what is a reasonable level of noise in a built up urban area.

- 7.4.2. In my opinion the scale and nature of the proposed Montessori use, combined with the hours of operation which does not extend beyond 4.00pm on weekdays and excludes weekends and bank holidays, is reasonable in a residential area. I am satisfied that the proposed development will not give rise to an unacceptable level of noise and will not negatively impact on the residential amenity of the area.
- 7.4.3. Concern has also been raised by the appellants with respect to potential loss of light to house no. 55A as a result of the proposed development. While I note that house no. 55A includes a glazed conservatory to the rear, I am satisfied that the proposed development which is single storey with a flat roof and overall height of 3.1m which is not excessive and will not result in overshadowing or loss of light to house no. 55A. I am also satisfied that the proposed development will not obstruct any views or detract from the visual amenity of the area or depreciate the value of property in the vicinity.
- 7.4.4. The appellants also note that the proposed development does not include open space. The drawings submitted clearly indicate an area of open space to the rear of the proposed house which appears to be shared with the proposed Montessori. Given the hours of operation proposed and that the operator is likely to be resident in the property I consider this an acceptable arrangement.

7.5. Other Matters

- 7.5.1. *Validity of Application* – The appellants have highlighted that the address of the subject site which refers to the entrance to the side of 56A, Shackleton Way is not correct, having regard to the fact that house no. 56A has not yet been constructed.
- 7.5.2. It is also noted that the adjoining houses constructed in the rear gardens of properties along Dodsboro Cottages all have addresses as Dodsboro Cottages and not Shackleton Way. I can confirm from my site inspection that this is indeed the case.
- 7.5.3. In support of the appellants assertion that the address cited is incorrect, a letter from the management company confirms that there is no such address as 56A Shackleton Way.

- 7.5.4. The appellants have also raised concern in relation to the public notices which should have been erected on yellow site notices as this was the second application within six months on the same site. It is also asserted that revised public notices should have been sought following receipt of further information given the extent and significance of the further information submitted.
- 7.5.5. These are not matters on which the Board can adjudicate. The appeal before the Board is valid and the third party's right to participate is given full effect.
- 7.5.6. *Right of Way* – It is asserted that while rights of way have been granted from Shackleton Way for the backland sites of Dodsboro Cottages these have been to provide access for private dwellings, and not for commercial development. In this regard I note that this estate has not been taken in charge and is managed by a private management company Petra Management Ltd.
- 7.5.7. The issue of ownership/rights of way are civil matters and I not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: 'A person shall not be entitled solely by reason of a permission under this section to carry out any development'. Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management – Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: 'The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...'
- 7.5.8. *Accuracy of Drawings* – It has been asserted that the dimensions shown on the drawings submitted are not accurate, and that the permitted house and proposed Montessori will not in fact fit on the site. I have examined the site layout drawing submitted with the application and as amended by way of further information and compared these to the site layout drawing for the permitted house (see attached). I note that all the drawings have all been prepared by Terry O'Riordan Planning and Design and I can find no discrepancies in the dimensions indicated between the proposed and permitted drawings.
- 7.5.9. *Fire and Safety Assembly Point* – The appellants have raised concern with regard to fire and safety noting in particular that the location of an assembly point in the case

of fire has not been identified. This is an operational issue and not a planning matter.

7.6. **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, being an infill development in an established urban area, 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 a European site.

8.0 **Recommendation**

- 8.1. I recommend that planning permission should be **granted** subject to conditions for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the location of the site on lands zoned for residential development in the South Dublin County Development Plan 2016 – 2022, Guidelines for Planning Authorities on Childcare Facilities, 2001, and to the design and layout of the proposed infill development, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would not endanger public safety by way of a traffic hazard. The proposed development would, therefore, 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 as amended by the

further plans and particulars submitted on the 8th day of July 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Roof colour shall be blue black or slate grey in colour only.

Reason: In the interest of visual amenity

3. The proposed Montessori shall not be separated from the main house permitted under P.A.Reg.Ref.SD18A/0320. In particular, it shall not be sold or let independently of the main house and, when no longer required for use as a Montessori, use of the structure shall revert to use as part of the main house.

Reason: In the interest of residential amenity.

4. The number of children to be accommodated within the premises shall not exceed 22 at any time, on any day.

Reason: To limit the development in the interest of residential amenity.

5. The proposed Montessori facility shall not operate outside the period of 0850 to 1600 hours Monday to Friday inclusive except public holidays, and shall not operate on Saturdays, Sundays or public holidays.

Reason: In the interest of residential amenity.

6. One additional on-site car parking space shall be provided prior to the opening of the childcare facility.

Reason: In the interests of public safety and orderly development.

7. Details of the revised vehicular entrance and front boundary details shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public safety.

8. Details of proposed side access gates and or boundaries between the permitted house and the proposed Montessori shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of safety.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. No signage shall be erected within the site and adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures, measures to ensure the safe removal, handling and disposal of asbestos and any other hazardous waste and off-site disposal of other construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

13. 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 the 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.

Susan McHugh
Senior Planning Inspector

28th February 2020