



An
Bord
Pleanála

Inspector's Report ABP 307578-20

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| Development | Side and rear extension and retention of temporary prefab resource room. |
| Location | Poulacapple (via Callan) Co. Tipperary. |
| Planning Authority | Tipperary County Council |
| Planning Authority Reg. Ref. | 19/600987 |
| Applicant | Poulacapple National School |
| Type of Application | Permission |
| Planning Authority Decision | Grant subject to conditions |
| Type of Appeal | 1 st Party v. conditions |
| Appellant | Poulacapple National School |
| Observer(s) | None |
| Date of Site Inspection | 24/09/20 |
| Inspector | Pauline Fitzpatrick |

1.0 Site Location and Description

Poulacapple National School is accessed from the N76 Clonmel-Kilkenny Road c. 5km to the east of Mullinahone and c.6km to the south of Callan. The site has a stated area of 0.566 hectares.

The school comprises of a single storey building with a prefab along the northern boundary used as a classroom and a smaller prefab to the rear used as a resource room. There is also a small storage shed. A basketball court and playing pitch are to the rear of the building. A low boundary wall separates the school from the parking area to the front. Yellow markings on the ground delineate the site boundary to the national secondary road.

A dwelling bounds the site to the south with the lands to the east and north in agricultural use.

The 100kph speed limit applies along the stretch of road in front of the school with no hard shoulders and central road markings restricting overtaking. It was noted to be well trafficked with vehicles travelling at speed and, despite the central markings, vehicles availing of overtaking opportunities. There is warning signage on approach to the school from both directions which operate during school start and finishing times reducing the speed limit to 60kph. There are further road markings in the immediate proximity of the school. The school is located to the north of the junction with local road L6405 (Mullinahone Road).

2.0 Proposed Development

The application was lodged with the planning authority on 06/09/19 with further plans and details including revised public notices received 06/04/20 following a further information request dated 29/10/19, with unsolicited information received 21/04/20 and 17/06/20.

Permission is sought to:

- erect a 124 sq.m. single storey extension to the side and rear of the existing building providing for a classroom and resource room to replace those in the existing prefabs.

- Retain the prefabs and relocate them to the southern boundary for the duration of the construction works.
- A vehicular access is to be provided from the existing car park area to provide for staff/disabled parking immediately adjacent to the school building.
- The surface parking to the front is to be marked out with a one way system to be delineated. The existing boundary wall is to be setback to provide for the one way system. A 1 metre hatch on the ground is proposed to delineate the boundary to the N76 with FG300 delineator white posts placed at 2 metre intervals along same. No kerb rise is proposed. Posts are also to be erected along the stretch of grassed verge to the north of the school site.

No increase in pupil numbers or staff is proposed.

The application is accompanied by:

- Traffic Report
- Stage 1 Road Safety Audit
- Letter of consent from adjoining landowner to remove/setback the hedgerow.
- Site Suitability Assessment for Effluent Treatment System.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 5 conditions:

Condition 1(b) the pre fabs to be removed when the extension becomes operational.

Condition 2 (a) the traffic access, circulation and parking proposals and works required to achieve sight lines to be completed prior to opening of extension.

(b) the access, circulation and parking proposals to be in accordance with details on drawing CI-03 REV A received 17/06/20.

(c) incorporation of kerbed area to a minimum height of 125mm above finished road level to ensure vehicles cannot drive over the island. Revised plans to be submitted.

(d) recommendations of Road Safety Audit to provide warning delineators at each side of the entrance to be incorporated into the final design.

Condition 3 (a) method statement for construction of traffic island, site entrance and circulation works.

(b) existing road markings shall be renewed. Special contribution to be paid towards same.

Condition 4: discharge to a secondary wastewater treatment system with polishing filter.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 24/10/19 notes that the proposal differs from that subject of 18/600227 in that it does not include the sight lines, access, or circulation improvements. The extension is acceptable. Details on site services are required. The previous permission included effluent treatment upgrades. A request for further information on access and parking including a Stage 1 Road Safety Audit and details on existing effluent treatment system recommended.

The 2nd Planner's report dated 18/06/20 considers the proposals represent a reduction in safety measures when compared to that as permitted. The delineator posts to be installed in the road verge to the north are not within the site boundary. No sight lines are shown from the egress point. These were shown on the previous application with sightlines of 215 metres which required the realignment of a hedgerow on 3rd Party lands. The proposed wastewater treatment system upgrade would provide improved treatment and reduced environmental impact and the proposals can be accepted notwithstanding the recorded T drainage value. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

The Area Engineer in an email dated 16/10/19 notes that its comments on the previous application on the site under ref. 18/600227 remain. At school times there is a high level of activity with anecdotal evidence of incidents or near misses. Any intensification of use would most likely increase the potential for similar

accidents/near misses. The concerns regarding road safety have not been adequately addressed. Further information required.

Roads Section in a report dated 29/04/20 note that the conditions recommended by Roads Capital Section for the 2018 application have not been incorporated into the new application. The approved application contained a kerbed island to separate traffic from vehicles pulling off the N76. This has been replaced with a hatched area with delineation posts. The island should be reinstated into the design. The adjacent hedgerow was to be removed, not trimmed, with a letter of consent from the landowner. Permission should be refused on the basis that it represents a reduction in safety measures when compared to that permitted and is unacceptable from a road safety perspective.

3.3. Prescribed Bodies

Transport Infrastructure Ireland in a submission dated 09/04/20 considers the proposals to be at variance with official policy. The proposal would result in an intensification of an existing direct access to a national road.

Tipperary Childcare has no objection.

3.4. Third Party Observations

None

4.0 Planning History

18/600227 – permission granted for side and rear extension, new effluent treatment system, revised road entrance, drop off and bus bay and to retain prefab for duration of construction works.

03/258 – permission granted for prefab. Condition 3 required installation of effluent treatment system. Condition 5 limited the permission to 3 years.

5.0 Policy and Context

5.1. Development Plan

South Tipperary County Development Plan, 2009 (as extended)

Policy TI3 – Strategic Road Network

It is the policy of the Council to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to Strategic Routes, subject to certain policy exceptions.

5.2. Natural Heritage Designations

The nearest site is the River Barrow and River Nore SAC (site code 002162) c. 3.5km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Michael Reilly Consulting Engineer on behalf of the applicant against conditions attached to the planning authority's notification of decision to grant permission can be summarised as follows:

6.1.1. **General**

- No additional pupils will attend the school with no additional teaching staff employed.
- Permission granted under ref. 18/600227 for a similar proposal was not enacted because the cost of the ancillary works associated with the extension was refused by the Department of Education. The appellant has no option but to re-apply for permission.

6.1.2. **Condition 1(b) – Removal of pre-fabs**

- Although no longer suitable for use as classrooms they are suitable for storage facilities and constitute a cost effective storage solution for the school. It is requested that the pre-fabs remain on site.

6.1.3. **Condition 2 (c) – Provision of raised island**

- The provision of a raised island rather than a painted area with white plastic posts creates an additional health and safety hazard and will more likely result in an accident than prevent one.
- With the raised island in place should a vehicle travelling from Clonmel direction decide to pass another vehicle close to the school there is no place for a vehicle travelling in the direction of Clonmel to exit the carriageway and avoid a collision.
- The school is within the 60kph speed limit during 0800 to 1600 Monday to Friday during school term. The present system works well in reducing traffic speed outside the school.
- The omission of the raised traffic island and its replacement with a painted surface and plastic white poles as initially designed is requested.

6.1.4. **Condition 3 (b) – Special Contribution towards renewal of existing road markings**

- Road markings are the responsibility of the County Council and should form part of its annual road maintenance budget. It is unreasonable to expect the applicant to pay for same.
- There is no public footpath in the vicinity of the school and therefore there can be no cost implication in relation to 'specific works in relation to same'.

6.1.5. **Condition 4 – provision of secondary effluent treatment system**

- Condition 4 of permission 02/1224 was complied with in 2002 when the 1st extension was constructed to the rear of the existing school. At that time a new effluent treatment system was installed. The said system is regularly maintained, is working satisfactorily and does not need replacement.
- The cost of the condition would be onerous.

6.2. Planning Authority Response

The submission can be summarised as follows:

- The retention of the pre-fab for storage purposes is a new element of the application not included in the development description.
- The requirements of condition 2 are reasonable.
- Reference in condition 3(b) to footpaths is an error.
- The road markings specifically benefit the school, and it is reasonable that it carry the cost of their renewal.
- Under ref. 18/600227 given that a new wastewater system was proposed it was considered that the existing system serving the school was not adequate. Under the current application following further information it was stated that the existing system does not comply with EPA requirements. A new wastewater system was then proposed. Whilst reference is made in the appeal that the existing system is working satisfactorily and does not need to be replaced no details of the system have been provided which would be necessary to allow for an assessment of its adequacy.

6.3. Observations

None

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Background and Context
- Retention of Prefab
- Site Access and Boundary Treatment
- Special Contribution
- Effluent Treatment System

- Appropriate Assessment

7.1. **Background and Context**

At the outset it is noted that the primary school is long established at this location with the proposed extension to replace the substandard accommodation currently provided in the prefab units on site. The works will not result in an increase in pupil or staff numbers. In principle there is no objection to the said extension.

As noted above an extension to the school and retention of the prefabs on a temporary basis was previously granted permission in October 2018 under planning reference number 18/600227. As can be extrapolated from the details on file the proposed extension is largely the same, with the substantive difference pertaining to the proposed alterations to the parking area to the front of the school. The proposed arrangement for which permission was granted provides for a kerbed island with a one way access and exit circulation system and removal of the hedgerow to the north to facilitate adequate sightlines. The conditions attached to the permission are largely comparable save in terms of level of detail set out in condition 2 due to the alterations to the front boundary arrangements now proposed. The decision was not appealed.

The appeal is effectively against all of the 5 no. conditions (in part or in their entirety) attached to the permission and, as a consequence, I recommend that the application be assessed as a whole rather than invoking section 139 of the Planning and Development Act, 2000, as amended.

7.2. **Retention of Prefab**

The existing prefabs located along the northern boundary and to the rear of the school building currently used as a classroom and resource room are to be relocated to the southern site boundary to be used for accommodation during the construction phase. A small storage shed is also to be removed to facilitate the extension. As per the nature and extent of the development as given in the public notices their retention for a temporary period for the duration of the works, only, was described and it is on this basis that it must be assessed. Whilst I would have no objection to the retention of the prefabs for storage purposes it is unfortunate that the applicant did not avail of this 2nd opportunity in the wording of the public notices to clarify its intentions. I submit that a further application will be required to cover same. On this

basis I submit that condition 1 (b) requiring their removal when the extension becomes operational is reasonable.

7.3. Site Access and Boundary Treatment

The current parking arrangement to the front of the school effectively provides for unrestricted, ad-hoc movements with yellow road markings, only, delineating the boundary to the road. The proposal allows for an opportunity to improve the access arrangements to reduce the potential for traffic hazard. With no increase in pupil or staff numbers to be facilitated by the development additional vehicular movements and intensification of use does not arise.

As noted on day of inspection the N76 was well trafficked with vehicles travelling at speed and, despite the central solid line road markings to either side of the school site, overtaking was noted. Potential for conflicting vehicular movements also arises where vehicles turn right onto local road L6405 a short distance to the south. There are no hard shoulders along the road. Activated speed limit signs reducing the speed limit to 60 kph during school opening and closing times are in place on approach from both directions with further road markings in the immediate vicinity of the site, although these are somewhat worn thereby reducing their visibility.

A one way system with dedicated entry and exit points is proposed with 10 no. parking spaces. Bus parking is not a requirement and is confirmed by letter in the documentation on file. However, contrary to that already permitted on site the applicant is seeking to omit the kerbed island and replace it with a 1 metre wide hatch on the ground with FG300 delineator white posts placed at 2 metre intervals along same. Posts are also to be erected along the stretch of grassed verge to the north of the school site. The appeal submission considers that the proposed arrangement would allow for a vehicle to exit the carriageway in an emergency should conflicting movements arising from overtaking vehicles.

I consider that the purpose of the delineation is so as to control access and exit from the site so as to improve the traffic environment in the vicinity. I submit that the proposed arrangement with plastic poles would be as effective as a kerb 125mm in height. I would also submit that such an arrangement would generally deter passing vehicles to enter onto the site while having the benefit of increasing the visibility of the school on approach which is somewhat limited due to its setback and current

absence of roadside boundary delineation. I therefore concur with the applicant's request in this instance.

7.4. Special Contribution

As per the wording of condition 3 (b) the existing road warning markings shall be renewed with a special contribution to be paid towards the proportionate costs of the specific works to the public footpath to facilitate the development. The planning authority in response to the appeal submission confirms that reference to a public footpath is in error and that the contribution is applicable to the road warning markings which specifically serve the school. No amount is detailed. As noted on day of inspection the markings are somewhat faded.

As to when a planning authority may require the payment of a Special Contribution is covered in Section 48(2)I of the Planning and Development Act 2000, as amended, with Section 7.12 of the Development Management Guidelines, 2007 providing guidance with respect to same. It is clear that such a request should only be made in respect of a particular development whereby demands likely to be placed on public services and facilities are deemed to be exceptional thereby incurring costs not covered by the General Development Contribution Scheme of the Council. Any condition imposed under this section must 'specify the particular works carried out or proposed to be carried out by the local authority to which the condition relates'. This requirement to identify the nature / scope of the works, the expenditure involved and the basis for its calculation, including how it is apportioned to the particular development, is of relevance and includes a mechanism whereby special contributions can be refunded to the applicant in the event that the works in question are not commenced or are not completed within the required timescales.

No details or calculations are given as to the costs arising. This is contrary to the above legislative requirements. I would also suggest that whilst the road markings are specific to the school they are in situ and the works required to improve same would more appropriately be considered to be ongoing maintenance and not demands placed on public services and facilities deemed to be exceptional thereby incurring costs not covered by the General Development Contribution Scheme of the Council. On this basis I recommend that the said requirement be omitted.

7.5. Effluent Treatment System

As noted above the proposed extension does not provide for an increase in pupil numbers but provides for an appropriate standard of accommodation to replace that provided in the prefabs. The prefab with sanitary facilities was granted a temporary permission under ref. 03/258. Condition 2 attached to same required the installation of a biocycle or puraflo biological treatment system or approved equivalent to be constructed and maintained in accordance with the 'Waste Water Treatment Manuals: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' as published by the EPA in 1999. Details were to be submitted to the planning authority for agreement.

I consider that there is a lack of clarity and a level of confusion arising with regard to this aspect. In response to the planning authority's request for further information on the adequacy of the system as installed the agent for the applicant inferred the request to provide evidence that *'the existing system complies with current EPA regulations'* as to mean the 2009 guidance which more appropriately refers to single dwelling units.

In view of the fact that the proposal will not facilitate an increase in pupil numbers or intensification of use of the site, I submit that the retrospective application of standards that did not apply at the time of installation nor are relevant for the scheme in question is not appropriate. Whilst the agent for the applicant states that the existing system was installed correctly, is working satisfactorily and is maintained regularly it is unfortunate that it did not take the opportunity to submit the relevant detail to support its assertions. I recommend that the necessary details to confirm same be requested by way of condition.

7.6. Appropriate Assessment

In view of the nature and extent of the development and the separation distance to the nearest European designated 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

I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the established educational use of the site and to the scale and nature of proposed development it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. 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 6th day of April 2020, 21st day of April 2020 and 17th day of June 2020 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. The pre-fabricated classroom and resource room shall be removed from the site on the completion and occupation of the proposed extension unless subject of a further grant of retention permission.

Reason: In the interest of clarity.

3. The proposed alterations to the area to the front of the school building including access arrangements, one way circulation, parking spaces, provision of warning delineators and improvement to sight lines as delineated on drawing numbers CI-03 Rev A and Cfi-02 received by the planning authority on the 17th day of June 2020 shall be completed to the written satisfaction of the planning authority prior to occupation of the proposed extension.

Prior to commencement of development a method statement shall be submitted for the said works for the written agreement of the planning authority.

Reason: In the interest of traffic safety

4. Prior to the occupation of the proposed extension the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the existing effluent treatment system on site has been installed and commissioned in accordance with approved details and is working in a satisfactory manner.

Reason: In the interest of public health.

Pauline Fitzpatrick
Senior Planning Inspector

October, 2020