



An  
Bord  
Pleanála

## Inspector's Report ABP 308560-20

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<b>Development</b>	Additional/dual use to allow for partial Montessori/childcare use as well as the existing use as a community centre at 1 <sup>st</sup> floor level
<b>Location</b>	St. Paul's Football Club, Gracefield Avenue, Artane, D 5.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2988/20
<b>Applicant(s)</b>	St. Paul's FC
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First Party v. Condition
<b>Appellant(s)</b>	St. Paul's FC
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> March 2020
<b>Inspector</b>	Louise Treacy

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 996 m<sup>2</sup> and is located at St. Paul's Football Club, Gracefield Avenue, Artane, Dublin 5. The site is adjoined by a 2-storey building to the north (St. Paul's Youth Club), by Gracefield Avenue to the east, by playing pitches to the west and by a laneway and the rear property boundaries of the dwellings at Brookwood Heights to the south.
- 1.2. The existing building on site is 2-storeys in height and is set back from the public road, with car parking provided to the front. The building accommodates a lounge, changing facilities, stores, toilets, a meeting room and kitchen at the ground floor level and a gym, changing rooms, office and a meeting/games room at 1<sup>st</sup> floor level.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the additional / dual use to allow for a partial Montessori / childcare use, as well as the existing community centre, at 1<sup>st</sup> floor level.
- 2.2. The Montessori / childcare use is proposed in the existing meeting/games room and has a stated floor area of 84.5 m<sup>2</sup>.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Grant Permission subject to 11 no. conditions issued on 9<sup>th</sup> October 2020.
- 3.1.2. Condition no. 2 requires the payment of a S. 48 Development Contribution in the amount of €8,112.
- 3.1.3. Condition no. 3 restricts the duration of the permission to 3 years.
- 3.1.4. Condition no. 4 requires that the childcare facility shall be open to the public between the hours of 0830 to 1300 Monday to Friday only.
- 3.1.5. All other conditions are generally standard in nature.

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Reports (2<sup>nd</sup> September 2020 and 9<sup>th</sup> October 2020)**

3.2.2. Dublin City Council's Planning Officer considered that, while the proposed change of use could be considered under the site's Z3 zoning objective, further information was required in relation to: (1) the number of children being catered for, (2) the number of staff, (2) the operating times, and (4) whether outdoor play space was proposed.

3.2.3. A Request for Further Information issued on 2<sup>nd</sup> September 2020 in relation to these items, in addition to those requested by the Transportation Planning Division (see section 3.2.6 below).

3.2.4. Following the Planning Officer's assessment of the further information submitted by the applicant on 14<sup>th</sup> September 2020, the proposed development was deemed to be consistent with the development plan and the proper planning and sustainable development of the area, and it was recommended that planning permission be granted.

#### 3.2.5. **Other Technical Reports**

3.2.6. **Transportation Planning Division (26<sup>th</sup> August 2020 and 30<sup>th</sup> September 2020):** Recommended that further information be sought in relation to: (1) details of how children will travel to the site; (2) details of drop-off/collection arrangements; (3) details of cycle/scooter parking; (4) a sustainable travel plan.

3.2.7. Following the submission of the requested further information, no objection arose to the proposed development subject to conditions.

3.2.8. **Engineering Department Drainage Division (7<sup>th</sup> August 2020 and 29<sup>th</sup> September 2020):** No objection to the proposed development subject to conditions.

### 3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** None received.

3.3.2. **Irish Rail:** None received.

### 3.4. **Third Party Observations**

- 3.4.1. Three third-party submissions were made on the application by: (1) Valerie Traynor, No. 68 Gracefield Avenue, Artane, Dublin 5; (2) Jennifer and Robert Mahony, No. 62 Gracefield Avenue, Artane, Dublin 5; and (3) Catheriona O'Connor, No. 64 Gracefield Avenue, Artane, Dublin 5, including the residents of Nos. 46, 56, 60, 64, 64a, 68, 72, 72a and 72b Gracefield Avenue, Artane, Dublin 5.
- 3.4.2. The issues which are raised can be summarised as follows: (1) the 1<sup>st</sup> floor level of the club is not currently used as a community centre for the local neighbourhood; (2) an abundance of childcare facilities already exist in the locality; (3) there is a need for childcare facilities for children under the age of 1, but this need will not be catered for by the proposed development; (4) existing traffic congestion associated with the club will be increased on foot of the proposed development; (5) no suitable parking; (6) noise impacts.

## 4.0 **Planning History**

- 4.1. **Planning Authority Reg. Ref. 1604/08:** Planning permission granted on 22<sup>nd</sup> October 2008 for the construction of a 1<sup>st</sup> floor extension over the existing single-storey clubhouse to provide for a gym, changing rooms, games room and meeting room.

## 5.0 **Policy and Context**

### 5.1. **Dublin City Development Plan 2016-2022**

### 5.2. **Land Use Zoning**

- 5.2.1. The site is subject to land use zoning "Z3" (Neighbourhood Centres) which has the objective "to provide for and improve neighbourhood facilities". A childcare facility is a permissible use under this zoning.

### 5.3. **Sustainable Communities and Neighbourhoods**

- 5.3.1. **Policy SN7:** To support and encourage the future growth of a wide range of public, social and community services essential to local community life, and to promote and seek to provide multi-use, fit-for-purpose community facilities which are suitable for all ages and all abilities, are operated according to an effective and efficient

management strategy, and which are accessible in terms of physical design, location, cost of use, and opening hours.

5.3.2. **Policy SN15:** To ensure the optimum use of community facilities and that high-quality facilities are accessible to all.

5.3.3. **Policy SN17:** To facilitate the provision in suitable locations of sustainable, fit-for-purpose childcare facilities in residential, employment, and educational settings, taking into account the existing provision of childcare facilities and emerging demographic trends in an area.

#### 5.4. **Guidelines for Childcare Facilities**

5.4.1. Guidelines for Childcare Facilities are contained in Appendix 13 of the plan. In the first instance, Dublin City Council will have regard to the Dublin City Childcare Committee and its identification of areas that are under-provided or over-provided in terms of childcare provision. Floor area requirements per child are also identified according to the type of childcare service provided.

#### 5.5. **Natural Heritage Designations**

5.5.1. None.

### 6.0 **The Appeal**

#### 6.1. **Grounds of Appeal**

6.1.1. An appeal has been lodged by the applicant in relation to condition no. 2 of Dublin City Council's Notification of the Decision to Grant Permission, which requires the payment of a S. 48 Development Contribution of €8,112 on foot of the proposed development. The grounds of the appeal can be summarised as follows:

- The applicant is a small, volunteer-based, not-for-profit football club, for social and recreational purposes only;
- Any revenue earned by the club from the use of the premises is ancillary to the football activities and will be used to reduce costs for parents and enhance the existing facilities. An exemption from the requirement to pay a development contribution is requested on these grounds;

- The contribution payment is significant for a temporary permission of 3 years and will place a burden on the club's financial viability;
- The Dublin City Childcare Committee has deemed that the service is necessary for the local area.

## 6.2. Planning Authority Response

- 6.2.1. A response was received from the Planning Authority on 26<sup>th</sup> January 2021. The Planning Authority confirms that the payment of a development contribution is required, as the proposed development comprises a partial change of use for commercial purposes.
- 6.2.2. The Planning Authority also confirms that the incorrect development contribution rate was applied to the Notification of the Decision to Grant Permission given the temporary nature of the development. The Planning Authority submits that the correct S. 48 development contribution arising in this case is €2,704.

## 6.3. Observations

- 6.3.1. None.

## 6.4. Further Responses

- 6.4.1. A further response was received from the applicant on 16<sup>th</sup> February 2021. It is submitted that the Montessori / childcare use will be for members of the football club only and not the general public, with no commercial benefit arising to football club members or trustees.

## 7.0 Assessment

- 7.1. This is a first party appeal against condition no. 2 as attached to the Planning Authority's Notification of the Decision to Grant Planning Permission. Condition no. 2 requires the developer to pay a S.48 Development Contribution of €8,112 on foot of the proposed development.
- 7.2. Following my examination of the planning file and grounds of appeal, I consider it appropriate that the appeal should be confined to condition no. 2 only. Accordingly, I am satisfied that the determination by the Board of this application as if it had been

made to it in the first instance would not be warranted and that the Board should determine the matters raised in the appeal only in accordance with Section 139 of the Planning and Development Act 2000, as amended.

- 7.3. I note that condition no. 3 of the Planning Authority's Notification of the Decision to Grant Permission, limits the duration of the permission to 3 years only. Section 12 of the Dublin City Council S. 48 Development Contribution Scheme 2020-2023 confirms that temporary permissions shall be liable for development contributions at one-third of the applicable rate. The applicable rate for commercial development, which includes the proposed Montessori / childcare use notwithstanding the applicant's submission of 16<sup>th</sup> February 2021, is €96 per m<sup>2</sup> of commercial development. This equates to a rate of €32 per m<sup>2</sup> in the case of a temporary permission.
- 7.4. The stated floor area of the proposed change of use is 84.5 m<sup>2</sup> (Drawing No. PL005: Proposed First Floor Level refers). Thus, I consider that the correct S.48 development contribution which is payable on foot of the proposed development is €2,704. I note that the reduced amount is also confirmed by way of Dublin City Council's appeal response as received by the Board on 28<sup>th</sup> January 2021.
- 7.5. Thus, I consider that the Planning Authority should be directed to amend condition no. 2 of the Notification of the Decision to Grant Permission accordingly.

## 8.0 Recommendation

- 8.1. I recommend that the planning authority be directed to amend condition no. 2 as follows:

"The developer shall pay the sum of €2,704 to the Planning Authority as a contribution towards expenditure that was and/or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority in accordance with Dublin City Council's Section 48 Development Contribution Scheme. The contribution is payable on commencement of development. If prior to commencement of development an indexation increase is applied to the current Development Contribution Scheme or a new Section 48 Development Contribution Scheme is

made by the City Council, the amount of the contribution payable will be adjusted accordingly.

Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development.

Reason: It is considered reasonable that the payment of a development contribution should be made in respect of the public infrastructure and facilities benefitting development in the administrative area of the Local Authority”.

## **9.0 Reasons and Considerations**

- 9.1. The planning authority did not correctly apply the terms of the Dublin City Council Development Contribution Scheme 2020-2023 based on the temporary nature of the permission as provided for under condition no. 3 of the Notification of the Decision to Grant Permission.

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Louise Treacy  
Planning Inspector

24<sup>th</sup> March 2021