



An
Bord
Pleanála

Inspector's Report ABP 310136-21

Development	Change of use of upstairs of club hall to creche/Montessori.
Location	Faughs GAA Clubhouse, Wellington Lane, Templeogue, Dublin 6W
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0331
Applicant	Faughs GAA
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	1 st v. Condition
Appellant	Faughs GAA
Observer(s)	None
Date of Site Inspection	None
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

Faughs GAA grounds is accessed from Wellington Lane in Templeogue. It comprises a number of all weather pitches, 2 storey club hall and associated parking.

Tymon Park and associated car park bound the site to the north and west with the Spawell complex which comprises a number of commercial uses to the south.

2.0 Proposed Development

The application was lodged with the planning authority on the 14/12/20 with further plans and details received 10/03/21 following a request for further information dated 11/02/21.

Permission is sought for the change of use of part of the 1st floor of the club hall to use as a creche/Montessori to operate between the hours of 8am and 2pm Monday to Friday. The room in question has been used as a function room and has a stated area of 136.75 sq.m.

The number of children to be accommodated would not exceed 20.

The application is accompanied by a Preliminary Travel Plan.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 9 conditions:

Condition 9: €12,460.20 contribution in accordance with the Development Contribution Scheme made under Section 48 of the Planning and Development Act, as amended.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st **Area Planner's** report contained in the Record of Executive Business and Chief Executive's Order recommends further information on car and bicycle parking,

preparation of a mobility management plan, details of the existing activities that take place within the clubhouse at the same time as the proposed creche/Montessori, confirmation of days for the childcare use, details of internal layout and outdoor space. The **2nd report** following further information considers that as the proposal will see an increase in activity at the site with a higher number of vehicles attending 5 days a week and, given the Council's commitment to sustainable development and climate change, the provision of an electrical vehicle charging point is considered reasonable. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

1st report from **Roads Department** recommends further information requiring allocation of parking spaces for mobility impaired users, electrical charging points and bicycle parking provision. Following FI stage a mobility management plan will be required. The **2nd report** following further information recommends conditions requiring EV charging points, mobility impaired parking spaces and bicycle parking spaces.

Water Services Section has no objection.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. Third Party Observations

None

4.0 Planning History

I am not aware of any previous planning applications pertaining to the site.

5.0 Policy Context

5.1. Development Plan

South Dublin County Development Plan 2016

The site is within an area zoned OS the objective for which is to preserve and provide for open space and recreational amenities. A childcare facility is open for consideration.

Chapter 3: Community Infrastructure

Policy C8 (a) - to support and facilitate the provision of good quality and accessible childcare facilities at suitable locations in the County.

C8 Objective 4 - to support the provision of childcare facilities in community buildings, such as community centres and schools.

Chapter 11 Implementation

Early childhood care and education

The Planning Authority will have regard to the following in the assessment of proposals for childcare and educational facilities:

- Suitability of the site for the type and size of facility proposed.
- Availability of indoor and outdoor play space.
- Local traffic conditions.
- Access, car parking and drop off facilities for staff and customers.
- Nature of the facility (full day care, sessional, after school, etc).
- Number of children to be catered for.
- Intended hours of operation.
- Impact on residential amenity.

5.2. Natural Heritage Designations

None in the vicinity

6.0 The Appeal

6.1. Grounds of Appeal

The submission by NRB Consulting Engineers on behalf of the applicant pertains to condition 9 which requires the payment of a financial contribution of €12,460.20 in accordance with the adopted section 48 scheme. The grounds of appeal can be summarised as follows:

- The applicant is a community based voluntary body, not for profit.
- Any monies made from the change of use will be used by the club to improve community facilities and activities for the members who are from the community.
- The South Dublin County Council Development Contribution Scheme 2021-2025 sets out the circumstances where no contribution or reduced contribution apply in section 11. The applicant complies with same.
- There have been other similar applications by other GAA clubs and Voluntary Bodies where a financial contribution was not required.

6.2. Planning Authority Response

It has no further details to add regarding the calculation and levying of the financial contribution

6.3. Observations

None

7.0 Assessment

The current appeal is made under Section 48(10)(b) of the Planning and Development Act, 2000, as amended. Consequently, the question to be addressed is whether the terms of the development contribution scheme have been properly applied by the planning authority in its imposition of condition No. 9 only. The South Dublin County Council Development Contribution Scheme 2021-2025 pertains.

The proposal is for the change of use of part of the 1st floor of the Faughs GAA club hall to a creche/Montessori for use between 8am and 2pm Monday to Friday. The planning authority applied the provisions of the said contribution scheme at the rate of €91.11 per square metre as is applicable for commercial/industrial development.

The applicant in appealing the condition refers to its voluntary body, not for profit status and considers that the provisions allowing for a waiving of the contribution as set out in section 11 of the scheme apply.

The said section sets out the circumstances where no contribution or a reduced contribution apply. Of relevance in this case -

“(xii) Development by a registered charity for non-profitable development shall be exempt from the requirement to pay a planning application fee, in accordance with Article 157 of the Planning and Development Regulations 2000 (as amended), shall be exempt. The exemption is stated below; *Development proposed to be carried out by or on behalf of a voluntary organisation, and which in the opinion of the planning authority—*

- *is designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of a locality, or by people of a particular group or religious denomination, and is not to be used mainly for profit or gain,*
- *is designed or intended to be used as a workshop, training facility, hostel or other accommodation for persons with disabilities and is not to be used mainly for profit or gain.”*

It is accepted that the applicant, Faughs GAA, is a voluntary sports body and would come within what is reasonably considered a ‘voluntary organisation’ as referenced above.

As can be extrapolated from the details on file the applicant will rent/lease out the area subject of the change of use to a 3rd party for which a fee will be paid. It is assumed that the said 3rd party, in operating the facility, will charge for the service. On this basis the development is commercial in nature and it is not unreasonable to assume that it will be operated by the said 3rd party for profit/gain.

The applicant in its appeal submission states that the monies generated by the childcare use will be used by the club to improve community facilities and activities offered for the members who are from the community. Whilst this is accepted this does not take from the fact that development, in itself, albeit operating from the voluntary body's premises, will be commercial in nature. It is my interpretation of the exemption provisions that the development must also be considered alongside the status of the applicant. I consider that the reasoning presented that as the monies received from the rent/lease will be funnelled back into the club and is not for profit or gain is not what is intended by development *designed or intended to be used for social, recreational, educational purposes by the inhabitants of a locality.... and is not to be used mainly for profit or gain.*

On this basis I consider that the planning authority properly applied the provisions of its section 48 development contribution scheme.

Whilst I note the appellant's reference to developments by other GAA clubs where financial contributions were not attached by way of condition each case is assessed on its merits.

8.0 Recommendation

- 8.1. Having regard to the foregoing I recommend that the planning authority be directed to **ATTACH** condition 9 for the following reasons and considerations.

Reasons and Considerations

It is considered that the planning authority has properly applied the terms of the South Dublin County Council Development Contribution Scheme 2021-2015. The change of use of part of the 1st floor of Faughs GAA club hall will constitute a commercial development and the circumstances where no contribution or a reduced contribution apply as set out in section 11 of the scheme and in particular subsection (xii) would not apply as the development is not designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of a locality, or by people of a particular group or religious denomination, and is not to be used mainly for profit or gain.

Pauline Fitzpatrick
Senior Planning Inspector

July, 2021