



An
Bord
Pleanála

Inspector's Report ABP 310792-21

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| Development | Vehicular access and car/bicycle parking provision. |
| Location | Part of lands at Cranford Court, paved area adjoining the eastern boundary wall of Cranford Lodge, No.188 Stillorgan Road, Dublin 4. |
| Planning Authority | Dun Laoghaire Rathdown County Council |
| Planning Authority Reg. Ref. | D20A/0759 |
| Applicant | Flaxview Ltd. |
| Type of Application | Permission |
| Planning Authority Decision | Grant subject to conditions |
| Type of Appeal | 3 rd Party v. Grant |
| Appellant(s) | 1. Robert Dowley 2. Patrick & Philomena Sheeran |
| Observer(s) | None |
| Date of Site Inspection | 18/01/22 |
| Inspector | Pauline Fitzpatrick |

1.0 Introduction

The Board is advised that there is a concurrent appeal under ref. ABP 309802-21 for demolition of existing dwelling and construction of a creche facility which the vehicular access and parking subject of this appeal is to serve. The site of the creche is within the administrative area of Dublin City Council. As the applications are linked, I recommend that they be assessed in tandem.

2.0 Site Location and Description

The site to which this appeal refers comprises a wide paved area of 0.06 hectares on which ad hoc parking occurs. It adjoins the eastern boundary of Cranford Lodge, 188 Stillorgan Road, for which permission is sought to demolish same and construct a new creche facility. The site is at the junction of Cranford Court access road and Stillorgan Road.

The Cranford Centre on the opposite side of the road to the east is a two storey, flat roofed commercial centre comprising of a mix of units served by surface parking. Cranford House Apartments are to the north of same. The Stillorgan Road dual carriageway is to the south.

3.0 Proposed Development

The application was lodged with the planning authority on the 20/10/20 with further plans and details accompanied by revised public notices received 08/02/21 and 21/04/21 following requests for further information and clarification of further information dated 09/12/20 and 0/03/21 respectively with a further (2nd) clarification of further information received 04/06/21 following a request dated 14/05/21.

As amended, the proposal entails the provision of new access arrangements to the proposed creche, landscaping, 7 no. parallel parking spaces and bicycle parking.

The junction between Cranford Court access road and Stillorgan Road is to be adjusted with kerbs altered to have a corner radius of 4.5 metres and the road width at the junction and along the road frontage narrowed to 6 metres.

A footpath is proposed between the creche and the kerb line

The application is accompanied by a suite of documents comparable to those which accompany the concurrent appeal for demolition of the dwelling and erection of the creche building and include:

- Architects Design Statement
- Sunlight and Daylight Access Impact Analysis
- Engineering Planning Report
- Appropriate Assessment Screening Report
- Noise Impact Report
- Travel Plan
- Letter of consent from land owner to make the application

4.0 Planning Authority Decision

4.1. Decision

Grant permission for the above described development subject to 8 conditions. Of note:

Condition 3: Submission of landscape plan.

Condition 4: €10,000 special contribution towards pedestrian crossing points and associated parking controls.

Condition 5: Revised plans showing safe pedestrian crossing of the Cranford Court access road along its eastern extent to meet pedestrian desire lines from Cranford Court including (a) dished kerbing from Cranford Court footpath to the proposed road build out and (b) dished kerbing from Cranford Court to the Stillorgan Road slip road junction.

Condition 6: Submission of DMURS quality audit report.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The **1st Planner's report** dated **09/12/20** notes:

- As the site is unzoned regard shall be had to the nature of the proposed use and the surrounding land use zonings.
- The proposal will provide for an enhancement of the public realm and is a use which is compatible with the zoning provisions of the surrounds, namely the NC zoned lands to the south and A zoned lands to the north-east. The works are ancillary to a proposed creche facility. Childcare facilities are permitted in principle in zone NC and open for consideration in zone A. Therefore, the proposal is acceptable.
- The reports from Transportation Planning and Parks and Landscape Services summarised below noted.

Further information in line with the said Transportation Planning report recommended in addition to issue of sufficient interest to carry out the works.

The **2nd Planner's** report dated **03/03/21** following further information noted:

- The response regarding sufficient legal interest is satisfactory.
- A review of the planning history notes that the existing car parking on the site is not identified on plans which form part of an extant permission associated with the Cranford Centre.

Clarification of further information recommended in line with the 2nd report from Transportation Planning Section summarised below.

The **3rd Planner's** report dated **14/05/21** recommends a further clarification of further information.

The **4th Planner's** report dated **25/06/21** following clarification of further information notes the comments of the Transportation Planning section and suitability of seeking a special contribution for works outside the applicant's control. A grant of permission subject to conditions recommended.

4.2.2. Other Technical Reports

The **1st report** from **Transportation Planning** dated **20/10/20** notes:

- Cranford Court is taken in charge. It welcomes measures to rationalise the parking arrangements and improvements to the environment for pedestrians and cyclists.
- Further information recommended as follows:
 - Details required on existing car parking arrangements and allocation and management of the space within the applicant's control.
 - Further details on road and footpath width, road markings, signage etc to include footpaths on both sides of Cranford Court. Geometry to be reviewed in accordance with DMURS guidance. Reduced radii recommended in addition to traffic calming measures to reduce speeds to 30km/hr.
 - Based on the location of the development with good access to public transport the number of car parking spaces is not justifiable.
 - Location of perpendicular parking spaces close to the junction with Stillorgan Road not satisfactory.
 - Clarification of proposed public area to be taken in charge.
 - Consideration of reduced allocation of parking spaces for the creche and details of how the drop off spaces are to be managed.
 - Travel Plan for the creche required.

The **2nd Transportation Planning** report dated **02/03/21** following further information notes:

- The perpendicular parking spaces are not satisfactory
- Works as proposed are not acceptable as they include removal of the existing road side public footpath which is taken in charge.
- Proposed road marking and signage layout not acceptable. Improved pedestrian accessibility is required including continuous pedestrian footpath either side of Cranford Court.

- Maximum of 8 no. parking spaces is deemed acceptable

Clarification of further information recommended.

The **Transportation Planning** report dated **24/0/6/21** following the 2nd clarification of further information response has no objection to the proposed development subject to conditions including a special contribution of €10,000 for pedestrian crossing points outside the area controlled by the applicant and associated parking controls.

Drainage Planning in a report dated **20/10/20** has no objection subject to conditions.

Parks, Community and Cultural Development is generally satisfied with the proposal. Conditions recommended including replacement of trees should they fail and reduction in clutter by use of bollard finishes.

4.3. **Prescribed Bodies**

Irish Water has no objection subject to conditions.

4.4. **Third Party Observations**

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to the issues set out in the 3rd party appeals summarised in section 6 below and include legal interest, loss of parking spaces and vehicular and pedestrian hazard.

5.0 **Planning History**

ABP 309802-21 (3468/20) – current appeal for demolition of existing dwelling and construct creche facility, Cranford Lodge, 188 Stillorgan Road, Dublin 4.

6.0 **Policy Context**

6.1. **Development Plan**

Dun Laoghaire Rathdown County Development Plan 2016

The site is not assigned a zoning objective. The Cranford Centre to the east is zoned NC the objective of which is to protect, provide for and-or improve mixed use neighbourhood centre facilities.

The site to the west within the administrative boundary of Dublin City Council is zoned Z1 the objective for which is to protect, provide and improve residential amenities.

6.2. Natural Heritage Designations

None in the vicinity

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. Robert Dowley (No. 186 Stillorgan Road)

The submission by BMA Planning on his behalf can be summarised as follows:

- Neither the applicant nor the entity providing a letter of consent have demonstrated sufficient legal interest in the lands subject of the application or the ability to carry out the works. Therefore the application is invalid.
- The proposal facilitates the expansion of the Cranford Centre and associated commercial uses into an established residential zone with a resulting adverse impact on the residential amenity of his property.
- The most suitable location for the creche is in the Cranford Centre.
- The proposed access and car park arrangements will adversely impact on the safe and efficient operation of the Stillorgan Road/Cranford Road/Cranford Centre junction and will endanger public safety by reason of traffic hazard and obstruction of motorists, pedestrians and cyclists.
- The works required by condition 5 attached to the planning authority's decision to allow for safe pedestrian crossing are outside the applicant's control. The condition is unenforceable.
- The following road safety issues remain outstanding:

- No provision is made for a continuous accessible footpath on the east side of Cranford Court access road despite numerous requests for same.
- The proposed pedestrian crossing points at the northern and southern end of Cranford Court access road and the proposed concrete traffic islands on the eastern edge of Cranford Court access road are all outside the application site red line.

7.1.2. Patrick and Philomena Sheeran

The submission, which is accompanied by supporting detail, can be summarised as follows:

- The address of the proposed development is incorrect as it is not Cranford Court.
- The application has failed to demonstrate sufficient legal interest to undertake the proposed development.
- The proposal poses a threat to the viability of existing businesses in the Cranford Commercial Centre. It will eliminate access to a truck and van service area and will reduce its car parking by 50 spaces. The centre cannot sustain such losses.
- The agent for the applicant admits that it is unlikely that the City Council permission could be implemented in isolation. Therefore the proposal is 100% dependent upon infrastructure being provided from Cranford Centre lands.
- The necessary information required in the County Council's Transportation Department's reports has not been provided including prioritisation of pedestrian safety improvements.
- Conditions attached to the planning authority's decision exclude the appellants from participation.
- Works detailed on drawings submitted by way of clarification of further information are not within the red line boundary.

- The proposal will endanger public safety by reason of traffic hazard and obstruction of pedestrians.
- A commercial centre is not an appropriate location for a creche.
- The objections of the other 3rd Party appellant to the appeal are endorsed.

7.2. Applicant Response

The applicant's responses to the appeals can be summarised as follows:

7.2.1. Procedural Issues

- The site has no formal address and the location of the site which is located on the main access road to Cranford Court, has been described in as much detail as possible.
- A concurrent application for the creche was lodged with Dublin City Council.
- 3rd Party rights were not impacted. Submissions were made by the appellants on the respective applications.
- Matters relating to arbitration, insurance and management company arrangements are not planning considerations.
- It is not clear how the creche car parking and access arrangements proposed will threaten the viability of the Cranford Centre.

7.2.2. Ownership and Legal Interest

- This is not a planning consideration.
- Sufficient legal interest to carry out the proposed works was provided to the satisfaction of the planning authority.
- Mr. Sheeran's rights are not impacted by the planning application.
- Access road to Cranford Court is taken in charge by the County Council.

7.2.3. Pattern of Development

- The application subject of the appeal is for the proposed ancillary car and access arrangements to serve a creche, only. The issues with respect to the proposed creche building are addressed in the concurrent appeal.

- The site is unzoned in the Dun Laoghaire Rathdown County Development Plan. The Cranford Centre is zoned NC the objective for which is to protect, provide for and-or improve mixed use neighbourhood centre facilities.
- The proposal will improve any potential traffic hazard situation that may be experienced, tidy up the lands and improve the visual amenities of the area.
- The car park and access arrangements should have no undue impact on the quality of life of adjoining residents.

7.2.4. Road Safety

- Drawing No. 192282-012-PL1 addresses, prioritises and improves public pedestrian access and safety whilst addressing car parking requirements. This is to the satisfaction of the Council's Transportation Division.
- The principles of DMURS have been applied which represent an improvement on the chaotic arrangements currently in place.
- The issue of providing a continuous accessible footpath on the east side of Cranford Court access road would compromise the existing Cranford Court car park vehicle aisles and reduce the number of parking spaces. This rationale was accepted by the County Council. The Transportation Section requested the inclusion of chevron line markings to better formalise and indicate the road edge to the benefit of all road users. This section of Cranford Court access road is taken in charge.
- The requested works on County Council lands are minor in nature and a development contribution has been levied accordingly.
- It is routine practice by local authorities and the Board to impose conditions that require agreement or furnishing of additional design details to the Authority outside the red line.

7.3. Planning Authority Response

The grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

7.4. Observations

None

8.0 Assessment

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

- Legal Interest
- Procedural Issues
- Vehicular and Pedestrian Safety
- Other Issues

8.1. Introduction

As noted at the outset the current proposal is to provide access and parking for a proposed creche immediately adjoining. Due to the fact that the sites straddle the administrative boundary between Dublin City Council and Dun Laoghaire Rathdown County Council there are two concurrent appeals which are inextricably linked. The demolition of the dwelling and construction of a creche facility is subject of appeal ABP 309802-21. I recommend that the appeals be assessed in tandem.

8.2. Legal Interest

The issue of legal interest constitutes a substantive issue arising in the case. The appellants contend the applicant does not sufficient legal interest to carry out the necessary access works nor has the consent of the relevant owners to do so. The claim is supported by a Solicitor's letter. The applicant, in response, refutes the claim and contends that it has the consent of the relevant landowner to undertake the works on the site. Again its response is support by a Solicitor's letter.

As noted in section 5.13 of the Development Management Guidelines the planning system is not designed as a mechanism for resolving disputes over land and that these are ultimately matters for resolution in the Courts. I consider that for the purposes of making the application the applicant has demonstrated sufficient legal interest. I submit that any further issue between the parties would constitute a civil matter best resolved through the appropriate channels. I recommend that the

applicant be informed of the provisions of Section 34(13) of the Planning and Development, Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a permission to carry out any development.

8.3. Procedural Issues

As confirmed by the Planning Authority during the assessment of the application Cranford Court access road has been taken in charge.

The issues of the adequacy of the address is raised with the view that it is misleading. By reason of the nature of the site it is accepted that it has no formal address and the location of the site, which is located on the main access road to Cranford Court, has been adequately described in the public notices. It is clear that local residents and businesses were aware of the application and the proposed development and engaged in the process by making their views known through written submissions to the Planning Authority in the first instance and to the Board at this appeal stage.

8.4. Vehicular and Pedestrian Safety

The proposed development is so as to facilitate the proposed creche on the immediately adjoining site which will provide for 77 no. child places.

As can be extrapolated from the detail on file the works as originally proposed worked on the basis that Cranford Court access road had not been taken in charge by the Local Authority. On clarification of the taken in charge status the works were amended in terms of the parking arrangements and maintenance of the existing road alignment.

The site subject of the application consists of an existing area of hardstanding which provides for 23 no. informal parking spaces. By reason of its configuration and relationship to the footpath conflicting vehicular and pedestrian movements are a reasonable concern.

After a number of amendments consequent to requests for further information and clarification of further information the following are proposed as per drawing no. 192282-011 Rev.PL1:

- 7 no. parallel indented parking spaces (1 no. accessible car parking space) along the site frontage.

- Footpath inside the parking spaces with landscaping

In addition further measures outside the site and the control of the applicant are detailed including:

- the junction between Cranford Court access road and Stillorgan Road is to be adjusted to have a corner radius of 4.5 metres with the road width at the junction narrowed to 6 metres.
- the road width along the site frontage to be reduced to 6 metres.
- a pedestrian crossing close to the junction of Cranford Court access road and Stillorgan Road and a 2nd crossing to the north of the site.
- Chevron line markings to better formalise and indicate the road edge to the east side of Cranford Court access road along the commercial centre frontage.

I accept that the works as a whole will assist in slowing traffic due to the tighter corner radii and narrowing of the road width along the site frontage which has the beneficial impact for pedestrian safety. The applicant has also justified why a footpath on the eastern side of Cranford Court access road is not proposed, namely the potential adverse knock on impact it could have on the parking area of the commercial centre.

I submit that the application of a special contribution to cover works outside the applicant's site and on lands under the local authority's responsibility which are required to facilitate the proposed development is the most appropriate mechanism and I would therefore concur with the planning authority's approach in this regard. I refer the Board to condition 3 attached to the planning authority notification of decision to grant permission.

The application is accompanied by a Travel Plan which details the measures to reduce car dependency. It is an initial plan which sets out the key infrastructural proposals and target modal splits. A survey of a nearby creche notes that 55% of children travel by foot/buggy and 45% by car. As noted the quantity of child drop off by car is not the same as quantity of children that will attend the creche (77 no). Arrivals and departures will be distributed throughout the day. I consider that subject to the above identified works, the adjoining road network can accommodate the

additional vehicular movements that would arise without give rise to vehicular or pedestrian safety concerns.

In conclusion I consider that the proposed arrangements provide for a material and beneficial improvement over what currently exists allowing for enhanced vehicular and pedestrian safety whilst also improving the visual amenities of the area.

8.5. Other Issues

The issue of the acceptability or otherwise of the proposed creche facility and its impact on amenities of adjoining property is assessed on the concurrent appeal file ref. ABP 309802-21.

I am unclear as to how the proposed development would threaten the viability of existing businesses in the Cranford Court Commercial Centre. It is currently served by over 90 parking spaces with no alterations proposed to its entrance from the access road.

Appropriate Assessment – Screening

The application is accompanied by Appropriate Assessment Screening Report.

Having regard to the nature of the proposed development in an urban area which is served by public infrastructure including water supply and foul drainage arrangements, together the separation distance between the appeal site and the nearest Natura 2000 site (c.1.2 km) it is considered that 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.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the scale, nature and design of the proposed development and the pattern of development in the vicinity, 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 or of property in the vicinity and would not endanger public safety by reason of traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 particular submitted on the 8th day of February 2021, 21st day of April, 2021 and 4th day of June 2021 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. Drainage arrangements including the 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.

3. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of road and pedestrian improvement works at the junction of Stillorgan Road and Cranford Court access road and along Cranford Court access road as delineated on Drawing No.

192282-011 Rev PL1 received by the planning authority on the 21st day of April, 2021. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

4. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

5. 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 hours of working, noise

management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

Pauline Fitzpatrick
Senior Planning Inspector

February, 2022