



An
Bord
Pleanála

Inspector's Report

ABP-314079-22

Development	Retention permission for 1 classroom and for 20 additional child spaces, on site granted permission (D05A/0839) and all associated site works.
Location	25 & 27 The Avenue, Woodpark, Ballinteer, Dublin 16.
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D21A/0873
Applicant(s)	Paul Monaghan & Annmarie Hendrick.
Type of Application	Retention permission.
Planning Authority Decision	Grant retention permission
Type of Appeal	1 st Party v. Conditions
Appellant(s)	Paul Monaghan & Annmarie Hendrick.
Observer(s)	None.
Date of Site Inspection	7 th December 2022.
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.0576ha, is located on the east side of The Avenue – an estate of mostly two-storey, semi-detached houses, in suburban Ballinteer, Dublin 16. There are no on-street parking restrictions in place in this estate. The site has two vehicular entrances and at least 3 on-site parking spaces. A 1.8m high wall, with solid timber vehicular gates, screens the rear garden from view from the road. The entire rear garden is given over to a play area for the creche.
- 1.2. Number 25 is a detached, two-storey house – with other houses to north, east and south. There is creche use at ground floor level (104sq.m) and residential use at first floor level (131sq.m). There is a shed structure to the rear of the house, which has been converted to creche use (34sq.m); which is now proposed for retention. The structure has a pitched roof and is not visible from the road. There are sanitary facilities within this small building (although not shown on drawings submitted). A small, lean-to shed structure has been erected to the side of the main house and the classroom for retention.

2.0 Proposed Development

- 2.1. Permission sought on 6th October 2021, for development comprising retention of single-storey, detached garage structure to the rear of the house/creche building. Retention permission also sought to increase number of children attending by 20.
- 2.2. Following a request for additional information, revised particulars were received on 28th February 2022, as follows-
 - The 'Bearna' [sic] shed on the site is currently used for storage. It is a temporary structure, which is being removed in July 2022.
 - Reference to a geo-cellular surface water attenuation system on the site, was made in error. Applicant would have no issue installing water butts.
 - Total number of children on site is 50. Age range is 2-5 years for morning session and 6-10 years for afternoon. The total staff number is 8.

- Most staff walk to work. Any that drive, park at the Coach House Pub car-park. There is full permission to use 20 car spaces at this car-park. Morning peaks are 0900 and 1200. There are no afternoon peaks. Bicycle parking is available on site; as are staff changing facilities.

2.3. Following a request for clarification of additional information, revised proposals were received on 1st June 2022, as follows-

- Internal alterations to bathrooms and changing facilities for children and staff.
- Details of arrangement for use of car-parking at Coach House pub – including letter of consent from owners of public house.
- Amended red-line site boundary – to include car-parking at Coach House pub.
- Details of what would happen if Coach House pub was redeveloped – as per application ref. D21A/0014 (ABP-309819-21).
- Details of long-stay bicycle parking on the site.
- Annotated colour thumbnail photographs of the site.
- Revised public notices.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 27th June 2022, DLRCC issued a Notification of decision to grant retention permission, subject to 7 conditions – the principal of which may be summarised as follows-

1. Development to be carried out in accordance with plans and particulars received with the application, as amended by further plans and particulars, received on 28th February 2022; and as further clarified by plans and particulars received on 1st June 2022.
2. Increase in number of children at the creche shall be no more than 10 – bringing the maximum number to 40.

3. Any increase in number of children or changes to the hours of operation, shall be subject to a separate planning application.
4. Existing 'Bearna' [sic] shed to the north of the site shall be removed within one month of the date of grant of permission.
5. Relates so drainage and SuDS.
7. Relates to bicycle parking for staff.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There is an initial report – dated 29th November, which recommends additional information in relation to the following aspects of the development-

- Status of second shed structure in rear garden.
- Surface water drainage.
- Details of number of children, ages, staffing levels, mobility management plan, parking and staff facilities.

There is a Planner's Report dated 24th March 2022, requesting clarification of additional information.

There is an ultimate Planner's Report, dated 27th June 2022, which recommends that retention permission be granted, subject to conditions.

3.2.2. Other Technical Reports

The report of the Municipal Services Department (Drainage Planning) of DLRCC – dated 28th October 2021, seeks additional information in relation to surface water attenuation on the site. A subsequent report (dated 11th March 2022) indicated no objection to the proposal.

The report of the Environmental Health Service – dated 9th November 2021, stated that the proposal was acceptable, subject to adequate waste storage facilities being available.

A Transportation Planning Report (dated 23rd November 2021) – a copy of which was submitted later by DLRCC, seeks additional information. A subsequent

Transportation Planning Report, dated 23rd March 2022, sought clarification of additional information. The final Transportation Planning Report, dated 23rd June 2022, indicated satisfaction with clarification of additional information submission from the applicant.

3.3. **Third Party Observations**

There are observations from neighbours, relating to parking and traffic safety.

4.0 **Planning History**

Ref. P05A/0839: Permission granted for a two-storey building incorporating a creche at ground floor level. The decision was appealed to the Board (**PL06D.215727**). Condition 7 states- 'The number of children to be accommodated in the creche shall not exceed 30 on any day'.

5.0 **Policy Context**

5.1. **Development Plan**

The Dún Laoghaire-Rathdown County Development Plan 2022-2028, is of relevance. The site is zoned – A 'To provide residential development and improve residential amenity while protecting the existing residential amenities'. Childcare use is 'Open for Consideration' within this zoning. Section 4.2.15 deals with Childcare Facilities. It is a Policy Objective to: 'Encourage the provision of appropriate childcare facilities as an integral part of proposals for new residential developments and to improve/expand existing childcare facilities across the County'.

5.2. **Natural Heritage Designations**

There are no Natural Heritage Designations either within or immediately adjoining the appeal site. The development is connected to the public sewerage network. There are no watercourses linking the site with any such designated areas. Significant effects are not likely to arise, either alone or in combination with other plans or projects.

5.3. EIA Screening

Having regard to the nature and scale of the development for retention, within a fully serviced suburban location; it is considered that there is no likelihood of significant effects on the environment arising. The requirement for environmental impact assessment can, therefore, be excluded at preliminary examination stage. A screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The 1st Party appeal from Paul Monaghan & Annmarie Hendrick, received by the Board on 12th July 2022, is against condition no. 2 of the permission only, and can be summarised in bullet point format as follows-

- Condition 2 requires that the increase in number of children at the creche be no more than 10 – with a maximum of 40 children. There is no good reason for attaching such a condition.
- Retention permission was sought for 50 children – the number the facility has been operating with since 2012 – and certified by Tusla.
- The facility opened, as a purpose-built childcare facility, in 2007. All staff are local. The reduction in numbers required by condition 2, would require 2 staff to be made redundant. This condition would also result in 10 local families having to send children elsewhere.
- This facility is a much-needed community amenity, and has operated since foundation, with no loss of residential amenity.

The appeal is accompanied by a copy of a Tusla certificate, for Registered Maximum Capacity of 50

6.2. Planning Authority Response

The response of DLRCC, received by the Board on 8th August 2022, indicates that there is no further comment to make.

7.0 Assessment

- 7.1. The principal issue of this appeal relates to the capacity of the childcare facility. The appeal is against condition 2 only, of the Notification of decision to grant retention permission. It is unnecessary to consider this development *de novo*, and I am satisfied that assessment can be restricted to condition 2 only.
- 7.2. Whilst the site has two street numbers (25 & 27), there is only one building. It would not appear to be a pair of semi-detached houses knocked into one. The rear garden play area for children, is screened from view from the road by a 1.8m high wall and solid timber vehicular gates. The site is connected to the public sewerage and watermain network. I note that there are sanitary facilities within the classroom structure for retention – although not shown on drawings submitted.
- 7.3. I note that the letter from Regan & Associates Architects, agent on behalf of the applicants, which accompanies the original application to DLRCC – clearly states that retention permission is being sought – “for the inclusion of an additional 20 children to the current facility”.
- 7.4. The claim of the applicants that the facility has operated since foundation, with no loss of residential amenity, is not borne out by two observations from neighbours, received by DLRCC – complaining of traffic and parking issues on the estate roads, resulting from drop-off/collection of children at this creche. Observers claim that not all parents park at the Coach House Pub (100m away) and walk the distance to the creche – particularly if they are running late or if it is raining. I would note that on the date of site inspection by this Inspector, at 1400 hours on a weekday, there was one car parked within the curtilage of the site. Two groups of children arrived on foot (24 in total) – each group escorted by two adults. In addition, a number of adults arrived on foot with/without empty buggies, in order to collect children. There were no collections/drop-offs by car at that time.
- 7.5. Circular Letter PL 3/2016 (copy enclosed in photograph pouch accompanying this Inspector’s Report) was issued to Planning Authorities and to the Board, relating to childcare facilities, and stated-
- ‘The Childcare Facilities Guidelines for Planning Authorities 2001 outline general planning related standards for childcare facilities. Planning Authorities are advised

that the Child Care (Pre-School Services) Regulations 2006 set out a range of childcare related standards for childcare facilities as stipulated by the Department of Children and Youth Affairs. The Child and Family Agency, also known as Tusla, is responsible for inspecting pre-school services under, and enforcing compliance with, the afore-mentioned 2006 Regulations. In light of the foregoing, planning authorities are requested to exclude matters relating to childcare facility standards outlined in Appendix 1 of the Childcare Facilities Planning Guidelines 2001 – including the minimum floor area requirements per child - from their consideration of planning applications relating to childcare facilities and to 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’.

Tusla is the agency charged with over-seeing the adequacy and safety of the accommodation provided at this creche. A letter on file appears to indicate that the facility can accommodate 50 children. The additional information submission made alterations to staff facilities, and provided for bicycle-parking for staff and parents/guardians within the curtilage of the property.

- 7.6. The Development Plan provides that creche use is ‘Open for Consideration’ within the residential zoning of the area. It is Council policy to- ‘Encourage the provision of appropriate childcare facilities as an integral part of proposals for new residential developments and to improve/expand existing childcare facilities across the County’. I would consider that the site is an appropriate one for limited expansion. The building is located at a road junction within a large housing estate; is detached from neighbours; and had good pedestrian/cycling linkages with the wider neighbourhood beyond the housing estate.
- 7.7. The parking provision for this development is indicated as being 20 spaces within the car-park of the Coach House pub – at the other end of The Court. These spaces have been included in the site as outlined in red, by way of additional information submission. Most of these spaces were empty on the date of site inspection by this Inspector. There is a proposal before the Board for the redevelopment of this public house site (ABP-309819-21). Notwithstanding the reference to this redevelopment in the clarification of additional information request from DLRCC, the applicant has not addressed the issue. The distance from the car-park to the creche is 160m. There is pedestrian/cycling linkage only from the car-park to The Court.

7.8. Condition 7 of a 2006 Board decision (Ref. PL06D.215727) on this site states- ‘The number of children to be accommodated in the creche shall not exceed 30 on any day’. The facility has been operating with 20 additional children – just quite how long is not clear. The applicant argues that an increase from 30 to 40 children will result in loss of employment for staff, and local families being inconvenienced. Condition 2 indicates that the PA was satisfied with an increase in 10 children (and associated staffing required), rather than the 20 sought in the application for retention. I would be satisfied, that if operated in accordance with the conditions attached to the permission issued by DLRCC, and if arrangements in relation to dropping-off/collection of children are adhered to, then 50 children at this facility would not be detrimental to the residential amenities of the area or constitute a traffic hazard.

8.0 Recommendation

I recommend that condition 2 of the Notification of decision to grant retention permission, which was issued by DLRCC, be amended to read as follows-

2 The proposed increase in the number of children occupying the creche shall be no more than 20 – taking the maximum number of children on the premises at any one time, to not more than 50.

Reason: In the interest of residential amenity.

9.0 Reasons and Considerations

Having regard to zoning provisions in the current Development Plan for the area, the established nature of the creche, arrangements in place for dropping-off/collection of children, and cycling facilities to be put in place, the use of this creche facility by a maximum of 50 children, would not be detrimental to the residential amenities of the area, and would be acceptable in terms of traffic safety and convenience.

Michael Dillon,
Inspectorate.

13th December 2022.