



An
Bord
Pleanála

Inspector's Report

ABP-315453-23

Development	Construction of a childcare facility
Location	Lands at Clairville Lodge, Carey's Lane and Streamstown Lane, Malahide, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0260
Applicant(s)	Charlie's Childcare Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Clairville Lodge Residents Group
Observer(s)	Stephen Jeffery
Date of Site Inspection	24 th July 2023
Inspector	Elaine Power

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.3. Prescribed Bodies	5
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	8
5.1. Fingal County Development Plan 2023 – 2029.....	8
5.4. Natural Heritage Designations	9
5.5. EIA Screening	10
6.0 The Appeal	10
6.1. Grounds of Appeal	10
6.2. Applicant Response	12
6.3. Planning Authority Response.....	14
6.4. Observations.....	14
6.5. Further Responses	14
7.0 Assessment.....	14
8.0 Recommendation.....	25
9.0 Reasons and Considerations.....	26

1.0 Site Location and Description

- 1.1. The appeal site is located to the south of Clairville Lodge residential estate, c. 1.8km south west of Malahide town centre. It forms part of a larger landholding (Clairville Lodge) that is within the ownership of the applicant. The character of the surrounding area is in transition from rural to suburban.
- 1.2. The site is bound to the north by no. 33 Clairville Lodge, to the south and east by public open space and to the west by Carey's Lane. The appeal site is irregular in shape and has a stated area of c. 0.1257 ha. It is generally flat and open and currently forms part of public open space associated with Clairville Lodge residential estate. There is an existing gated access and railings at the sites eastern boundary with Carey's Lane.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a 2-storey childcare facility with enclosed outdoor play space, 6 no. car parking spaces, 18 no. bicycle parking spaces, boundary treatments and access road at an existing vehicular entrance from Carey's Lane, off Streamstown Lane.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 11 no. standard conditions

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planners Report 7th July 2022

Initial Area Planners Report raised some concerns regarding the proposed development and recommended further information be requested with regard to 5 no. items. These items are summarised below.

1. Clarify how this application relates to Reg. Ref. F22A/0104, which has an overlapping redline boundary.

2. Clarify the proposed operational hours of the creche.
3. Further consideration of the internal layout of the first floor level, to prevent undue overlooking from the proposed staff area towards existing dwellings to the north and further consideration of the requirement for 2 no. stairs within the development.
4. Address the following issues: -
 - a. Site layout plan demonstrating a similar layout to the drop off area and staff car parking area to the layout that was approved under Reg. Ref. F14A/0483.
 - b. Revised bicycle parking provision to provide a more safe, secure and enclosed parking provision.
 - c. Improved pedestrian crossing of the vehicular access in accordance with DMURS.
 - d. Clarity on the existing vehicular entrance
 - i. Clarify if it is intended to remove the existing gates at the existing vehicular entrance.
 - ii. Clarify if the entrance piers have been constructed in accordance with the permission granted.
 - e. Taking in charge plan.
5. Submit the following:
 - a. Detailed landscaping plan.
 - b. Existing tree and hedging protection plan.

A response to further information was submitted on the 2nd November 2022. The additional information was deemed significant and in accordance with Article 35(1)(a) of the Planning and Development Regulations, 2001 (as amended) revised public notices were advertised / erected on the 4th November 2022.

Planners Report 28th November 2022

Following receipt of further information the Planning Authority considers that the response to the request for clarification of additional information have been satisfactorily addressed. The Area Planner's report concludes that the proposed development accords with the policies and objectives of the Fingal County Development Plan 2017-2023 and would remain consistent with the original development approved but not constructed on these lands. The development would integrate appropriately within the surrounding context without undue impact to the visual or residential amenities of the area while providing a critical element of social infrastructure necessary to sustain the emerging residential area. It was recommended that permission be granted subject to 11 no. standard conditions.

3.2.2. **Other Technical Reports**

Water Service Department: Report of the 2nd June 2022 raised no objection subject to conditions.

Environmental Health, Air and Noise Unit: Report of the 22nd June 2022 raise no objection subject to standard conditions.

Transportation Planning Section: Report dated 30th June 2022 recommended that further information be requested. This is reflective of Item 4 of the request for further information issued by the planning authority. Report dated 23rd November 2022 considers that the response to further information satisfactorily addressed the concerns raised. It was recommended that permission be granted subject to standard conditions.

Parks and Green Infrastructure Division: Report dated 8th July 2022 raised no objection subject to conditions.

3.3. **Prescribed Bodies**

Uisce Eireann: Report dated 6th June 2022 recommended that a standard condition be attached to any grant of permission.

Dublin Airport Authority: Report dated 21st June notes that the subject site is located within Noise Zone C and recommends that a condition is attached requiring noise

sensitive uses to be provided with noise insulation to an appropriate standard in accordance with Policy DA07 of the Fingal County Development Plan 2017-2023.

3.4. **Third Party Observations**

13 no. third party submissions were received by the planning authority. An additional 7 no. submissions were received following the publication / erection of revised public notices. The concerns raised are similar to those of the appeal.

4.0 **Planning History**

Subject Site

ABP PL06F. 245240, Reg. Ref. F14A/0483 (Parent Permission): The subject site forms part of a larger landholding (3.03ha) which was granted permission in 2015 for the demolition of an existing office and workshop building, sheds and farm outbuildings and construction of 32 no. detached dwellings and a creche (374sqm) and all associated site works. Subsequently permission was granted for a number of minor amendments to the residential units under Reg. Ref. F16A/0215, Reg. Ref. F16A/0424, Reg. Ref. F17A/0177 and ABP. 301848-18, Reg. Ref. 18A/0151

Reg. Ref. F17A/0208: Permission granted in 2017 for alterations to permitted development, comprising the provision of 2 no. additional houses to provide a total of 34 no. dwellings, changing of house types, repositioning of houses and roads and associated development.

ABP303418-19, Reg. Ref. 18A/0579: Permission was refused in 2019 for alterations to previously approved ABP PL06F. 245240, Reg. Ref. F14A/0483 to provide an additional 3 no. dwellings to the south of the site to provide a total of 37 no. houses and the omission of the creche. The 4 no. reasons for refusal related to (1) material contravention of the zoning objective (2) the proposed development would seriously injure the residential amenity of existing residents by reason of loss of open space and (3) flood risk and (4) the proximity of the proposed dwellings to the approved pumping station and associated noise and odour would negatively impact on the residential amenities of future residents.

Surrounding Sites

ABP. 309907-21 – Strategic Housing Development Application: Permission was refused in 2021 for the demolition of 'Little Auburn' and associated outbuildings, construction of 411 no. residential units, 102 no. houses including preservation of Auburn House and 309 no. apartments, childcare facilities and all other associated site work. The 3 no. reasons for refusal related to (1) the negative impact on a protected structure (2) the loss of a significant number of trees and (3) insufficient information regarding the impact on daylight and sunlight for surrounding properties on lands c. 100m north of the appeal site.

ABP. 313360-22 Strategic Housing Development Application: Current application for the preservation of Auburn House (a Protected Structure) and stables as 1 no. residential dwelling, conversion of stables to provide storage space for Auburn House, the construction of 368 no. residential units, 87 no. houses and 281 no. apartments, a creche and associated site works on lands located c. 100m north of the appeal site.

ABP. 316444-23, Reg. Ref. F22A/0579: Current appeal for the conversion of stables of Auburn House to provide for storage space for the main Auburn House and construction of 69 no. residential units on lands located c. 100m north of the appeal site.

ABP.307020-20, Reg. Ref. 19A/0452: Permission was refused in 2020 for the construction of 57 no. residential dwellings on a 2.65 ha site at Streamstown Wood, Streamstown Lane, c. 100m south of the subject site. The reason for refusal considered that the density (24.9 units per ha) is not in accordance with the Sustainable Residential Development Guidelines and that the layout is dominated by roads and surface car parking and results in a poor design concept and is substandard in form and layout, fails to establish a sense of place and includes poor quality or urban and architectural design.

ABP. 313265-22 Strategic Housing Development Application: Permission was refused in 2023 for the construction of 100 no. residential units, 34 no. houses and 66 no. apartments, a creche and associated site works on lands located c. 500m east of the appeal site. The reason for refusal related to the piecemeal nature of the development which comprised the layout and areas of public open space.

ABP.306640-20, Reg. Ref. F19A/0557: Permission was granted in 2020 for the construction of 48 no. dwellings at a site located c. 800m south east of the appeal site.

5.0 Policy Context

5.1. Fingal County Development Plan 2023 – 2029

The subject site is Zoned OS - Open Space with the associated land use objective to 'preserve and provide for open space and recreational amenities'. The vision for these lands is to provide recreational and amenity resources for urban and rural populations subject to strict development controls. Only community facilities and other recreational uses will be considered and encouraged by the Planning Authority.

Malahide is identified in the Core Strategy as a Self-Sustaining Town. It is envisioned that the population of Malahide would increase by 1,623 persons and 877 no. units over the lifetime of the plan. The following policies and objectives are considered relevant: -

Policy CIOSP10 – Childcare Facilities: Support the provision of appropriate childcare facilities.

Objective DMSO79 – Applications for Childcare Facilities: Any application for childcare facilities shall have regard to the following:

- Suitability of the site for the type and size of facility proposed.
- Adequate sleeping/rest facilities.
- Adequate availability of indoor and outdoor play space.
- Convenience to public transport nodes.
- Safe access and convenient off-street car parking and/or suitable drop-off and collection points for customers and staff.
- Local traffic conditions.
- Intended hours of operation

Policy CSP34 – Consolidate Growth of Self-Sustaining Towns; Policy CSP35 – Malahide; Policy CSP36 – Focus Growth Within and Contiguous to Core in Self-

Sustaining Towns; Objective CIO27 – Optimum Childcare Locations; and Objective CIO28 – Childcare Facilities and New Development are also considered relevant.

5.2. **National Planning Framework**

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places. Relevant Policy Objectives includes the following:

- *National Policy Objective 31*: Prioritise the alignment of targeted and planning employment growth with investment in: The provision of childcare facilities and new and refurbished schools on well-located sites within or close to built-up areas, that meet the diverse needs of local populations.

5.3. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Childcare Facilities Guidelines for Planning Authorities (2001)
- Circular Letter PL 3/2016
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

5.4. **Natural Heritage Designations**

The following designated sites are located within 15km of the appeal site:

- Malahide Estuary SAC (000205) c. 1.8km north of the appeal site.
- Baldoyle Bay SAC (000199), c. 3.5km south east of the appeal site.
- Rogerston Estuary SAC (000208) c. 6.3km north of the appeal site
- Rockabill to Dalkey Island SAC (003000), c. 7.2km east of the appeal site
- North Dublin Bay SAC (000206), c. 6.7km south east of the appeal site.
- Irelands Eye SAC (002193) c. 8.1km south east of the appeal site.

- Howth Head SAC (000202), c. 9.4km south east of the appeal site.
- South Dublin Bay SAC (000210), c. 11km south of the appeal site.
- Malahide Estuary SPA (004025) c. 1.8km north of the appeal site
- Baldoyle Bay SPA (004016), 3.5km south east of the appeal site.
- North-West Irish Sea SPA (004236), c. 4km east of the appeal site.
- Rogerstown Estuary SPA (004015), c. 6.5km north of the appeal site.
- Irelands Eye SPA (004117), c. 8km south east of the appeal site.
- Howth Head Coast SPA (004113), c. 10 km south east of the appeal site.
- Lambay Island SPA (004069) c. 11 km north east of the appeal site.
- South Dublin Bay and River Tolka Estuary SPA (004024), c. 11.5km south of the appeal site.

5.5. EIA Screening

Having regard to the limited nature and scale of the development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was received from Clairville Lodge Residents Group. The main grounds of the appeal are summarised below:

Principle of Development

- The planning authority failed to have regard to the zoning objective of the site in the Draft Fingal County Development Plan. The site has been re-zoned in the draft development plan from RA New Residential to OS Open Space. Childcare facilities are not permissible on lands zoned for open space.

Therefore, the proposed development does not comply with the zoning objective.

- The previous grant of permission was assessed under a different development plan. The policies and objectives have changed.
- The development does not comply with the provisions of the Childcare Facilities Guidelines as the site and proposed accommodation represents an unsuitable location for a creche, there is an absence of public transport, a safe road network and a large housing development.
- A childcare facility is to be provided in the adjacent development at Auburn Development, which has direct access to the Dublin Road and is ideally located and sized to cater for the purported demand in the area.
- There is no demand for a creche at this location. Residents in the Clairville Estate already have their children in local creches.

Open Space

- Concerns regarding the loss of public open space
- The Local Area Plan is out of date and a Masterplan was never completed for the area. However, it is clear that the LAP intended that a large area of public open space would be provided.

Design Approach

- The proposed scheme represents overdevelopment of the site.
- Insufficient detail regarding the intended operational hours and use of the facility.
- The proposed scheme would have an overbearing impact and would overshadow existing properties to the north of the site.
- Concerns regarding the proximity of the creche to the pumping station and associated odour.

Transportation

- Carey's Lane is a rural road and does not have the capacity to accommodate the proposed development.

- Concerns regarding increase vehicular traffic and potential for a traffic hazard.
- Insufficient car parking provided. There is inadequate pedestrian infrastructure to support walking to the site.
- Public transport is infrequent and the DART is over 2km from the site.
- The development is subject to the vehicular entrance and road works proposed under F22A/0104, which is seemed withdrawn due to the failure of the applicant to response to a request for further information. The proposed development is premature pending the retention of this entrance and access road.

Other Issues

- Concerns regarding contradictory addresses given for the applicant on the planning application form.

6.2. Applicant Response

The applicants response is summarised below:

Principle of Development

- Permission was granted under the parent permission Reg. Ref. F14A/0483 for a creche on the subject site. The proposed development would complete the parent permission.
- It is correct to assume that Reg. Ref. 22A/0104 has been withdrawn. The access arrangements are per the parent permission Reg. Ref. 14A/0483.
- Permission was refused (ABP. 303418-19) for the construction of 3 no. houses on the subject site as it was considered that a creche should be located at this site.
- The requirement to prepare a masterplan for Streamstown was removed in the Draft Development Plan.
- The development is fully compliant with draft development plan policies and objectives.

- Following from the Material Alterations Stage of the development plan the subject site is zoned CI – Community Infrastructure. Childcare Facilities are permitted in principle under the CI zoning objective.
- The subject site is suitable for a creche. It is adjacent to new housing and is served by footpaths, roads, public lighting and public transport. The development would serve the wider environs of Malahide.

Design Approach

- The creche is a similar size to that previously approved on the subject site. It would not have any negative impact on the residential amenities of adjacent properties.
- The nature of the facility and the operation hours were clarified by way of further information and confirmed by way of condition.
- The creche is vital to provide necessary social infrastructure within the area.

Open Space

- The subject site was never designated or intended to be used as public open space. The proposed development does not result in a reduction in the quality or quantity of public open space approved at Clairville Lodge.

Transportation

- There is an existing footpath and road width between the subject site and Streamstown Lane to provide access to the site.
- As part of a separate planning application (Reg. Ref. F19A/0446) Streamstown Lane is to be upgraded to 5m in width with a 1.5m wide footpath. Additional upgrade works are also proposed at the junction of Streamstown Lane and Feltrim Road.
- The Transportation Section of Fingal County Council raised no objection to the proposed development.

6.3. **Planning Authority Response**

The application was assessed against the policies and objectives of the Fingal County Development Plan 2017-2023 and national policy and guidelines. The proposed development is considered to be consistent with proper planning and sustainable development of the area. It is requested that the Board uphold the decision of the planning authority.

6.4. **Observations**

An observation was received from Stephen Jeffery. The main grounds of the observation are similar to those raised in the appeal. Additional concerns are summarised below: -

- The design approach to the creche is out of character with the area and would negatively impact the visual amenities of the area.
- Concerns regarding capacity of the foul network to accommodate the proposed development.

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Compliance with Childcare Facilities Guidelines
- Design and Layout
- Residential Amenity
- Open Space

- Water Services
- Appropriate Assessment

7.2. ***Principle of Development***

- 7.2.1. The planning authority assessed the scheme against the provisions of the Fingal County Development Plan 2017 - 2023, which was the relevant statutory plan in place when the application was decided. The current development plan was adopted in April 2023 and my assessment is based on the policies and objectives of the current statutory plan, which is the Final County Development Plan 2023-2029.
- 7.2.2. In the previous development plan the appeal site was zoned RA Residential Area. Childcare facilities are permitted in principle on lands zoned RA. In the current development plan the appeal site is Zoned OS - Open Space. The associated land use objective for lands zoned open space is to *'preserve and provide for open space and recreational amenities'*. Childcare facilities are not permitted under this zoning objective.
- 7.2.3. Third parties raised concerns that the planning authority failed to have regard to the open space zoning objective of the site in the Draft Fingal County Development Plan, which was available when the decision was made by the planning authority. In response to the appeal the applicant notes that during the Material Alterations Stage of the development plan process the zoning objection of the site was amended from OS – Open Space to CI – Community Infrastructure. The Stage 3 report of the Development Plan 'Proposed Material Alterations', was published in November 2022 and is available on the planning authority's website (www.fingal.ie/development-plan/stage3). It is noted that the report includes Proposed Amendment PA SH 9.3 *'to amend zoning from OS-Open Space to CI-Community Infrastructure at a site at Clairville Lodge, Careys Lane and Streamstown Lane, Malahide'* and that childcare facilities are permitted in principle under the CI zoning objective. Notwithstanding the proposed amendment to the zoning objective at the material alterations stage of the development plan process, the Fingal County Development Plan 2023-2029 which was adopted in April 2023 clearly indicates that the subject site is zoned OS – Open Space. Therefore, the proposed childcare facility would be a material contravention of the zoning objective for the site.

7.2.4. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that: -

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.2.5. Taking each of these in turn I conclude:

- (i) The proposed development is not of strategic or national importance.
- (ii) There are no conflicting objectives and all objectives are quite clear in the development plan relating to lands zoned for open space.
- (iii) Section 2.4 of the Childcare Facilities Guidelines (2001) state that with regard to new communities / larger new housing developments planning authorities should require the provision of at least one childcare facility for new housing areas unless there are significant reasons to the contrary. In general, the guidelines recommend that 1 no. childcare facility be provided for 75 no. dwellings. The planning history for the site, outlined in Section 4 above, indicates that Clairville Lodge comprises 34 no. houses. It is my view that having regard to the relatively limited number of houses within the Clairville Lodge that the proposed creche is not justified with regard to the Childcare Facilities Guidelines. There are no other specific requirements set out in policy

directives, relevant policies of the government nor regional planning guidelines which would support such a proposal.

(iv) The pattern of development and permissions granted in the area since the making of the development plan in April 2023 do not suggest a predisposition to such type development.

7.2.6. Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that the Board are not open to a grant of permission that may be considered to materially contravene the zoning objective of the Fingal County Development Plan 2023-2029, as in my view the proposed scheme is not justified.

7.3. ***Compliance with Childcare Facilities Guidelines***

7.3.1. It is my recommendation that permission be refused on the basis of a material contravention of the zoning objective. However, it is also considered appropriate to address the additional concerns raised by third parties. In particular concerns that the proposed creche does not comply with the provisions of the Childcare Facilities Guidelines.

7.3.2. Section 3.2 of the guidelines sets out a number of criteria for assessing applications for childcare facilities. It is noted that these criteria are reflected in Objective DMSO79 of the development plan and can be summarised as following: suitability of the site; sleeping / rest facilities; intended hours of operation; play space; public transport; access and car parking; and local traffic conditions;. In the interest of clarity these criteria are addressed below.

Suitability of the Site

7.3.3. It is my view that the suitability of the site for the type and size of facility proposed should be considered overlaps with the intended hours of operation and appropriate sleep / rest facilities. It is noted that concerns are also raised in the appeal that insufficient detail regarding the intended operational hours and use of the facility have been provided.

- 7.3.4. The proposed 2-storey childcare facility has a stated area of c. 412sqm. The internal layout provides 2 no. interconnected rooms, separate sleep rooms, storage areas, a toilet, nappy change and office and staff areas at ground floor level and 2 no. interconnected rooms, staff room, storage and toilets at first floor level. As indicated on the submitted drawings the creche would have a maximum capacity of 76 no. children and 13 no. staff. I am satisfied that there are sufficient sleep rest rooms for the proposed facility.
- 7.3.5. In response to the request for additional information the applicant proposed that the creche would operate between 8am – 6.30pm Monday to Friday. Condition no. 2 of the grant of permission set the operational hours as 7.30am – 6.30 pm Monday – Friday. It is envisioned that the facility would provide for full time care and after school care.
- 7.3.6. As outlined in Section 4 Planning History above, permission was granted (ABP PL06F. 245240, Reg. Ref. F14A/0483) in 2015 for a creche (374sqm) on the subject site and the construction of 32 no. detached dwellings (Clairville Lodge). The creche was never constructed as part of the residential development and in 2019 permission was refused (ABP303418-19, Reg. Ref. 18A/0579) to provide 3 no. dwellings in lieu of the creche. The first reason for refusal related to the omission of the creche and a material contravention of the zoning objective to provide for new residential communities subject to the provision of the necessary social and physical infrastructure.
- 7.3.7. Having regard to the sites planning history, the residential nature of the surrounding area, the transition of the character of the surrounding area from rural to suburban and having carried out a site visit on the 24th July 2023 I am satisfied that the type and size of the childcare facility is suitable at this location. It is also my view that the provision of a childcare facility at this location would be in accordance with the provisions of development plan policy CIOSP10 to support the provision of appropriate childcare facilities.

Outdoor Play Space

- 7.3.8. Section 3.2 of the guidelines recommends that the availability of outdoor play space and the management of same should be considered. The proposed childcare facility includes a 172sqm enclosed outdoor play area to the south of the proposed building.

There is direct access to the outdoor play area from the ground floor level rooms. Although not stated in the submitted documentation I am satisfied that this area would be maintained by the operator of the facility, as is standard practice for any childcare facility. The taking in charge plan submitted by way of further information also indicates that the outdoor play area would not be taken in charge. I am satisfied that there is sufficient outdoor play area for the proposed facility.

Demand for Childcare Facilities

7.3.9. Section 3.2 of the guidelines also recommends that the number of childcare facilities in the area should be considered. Table 1 of the applicants Planning Report, submitted with the application to the planning authority, indicates that there are 4 no. childcare facilities within a 1km radius of the appeal site with capacity for 188 no children, comprising 110 no. full time spaces and an additional 78 no. sessional / afterschool places. Table 1 also indicates that there are an additional 27 no. childcare facilities within 2km of the appeal site and Table 2 indicates that there are 3 no. childminders within 2km of the site. In total there are c. 1,333 no. childcare spaces within 2km of the subject site. The report also provides a breakdown of demographic trends within the surrounding Electoral Divisions of Kinsealy, Malahide West and Swords – Seatown, which are considered to be within the sites catchment area. Table 6 of the report indicates that in 2023 there is an estimated 2,105 persons aged 0-4. Having regard to the information submitted by the applicant, which is evidence based and robust, I am satisfied that there is not an over concentration of childcare facilities within the surrounding area and that there is demand for an additional facility.

Transportation

7.3.10. Section 3.2 of the guidelines and Objective DMSO79 require that local traffic conditions, access to convenient to public transport nodes and safe access and convenient parking for customers and staff should be considered.

7.3.11. Concerns are also raised in the appeal that there is insufficient capacity on the surrounding road network to accommodate the creche.

7.3.12. There are footpaths along the site boundary with Carey's Lane that provides connectivity to Malahide Road via Streamstown Lane. I am satisfied that there is

sufficient pedestrian infrastructure connecting the subject site to the surrounding residential areas to provide safe access to the site.

- 7.3.13. Vehicular access to the site is proposed from the sites eastern boundary with Carey's Lane from an existing vehicular access that was constructed under parent permission ABP PL06F. 245240, Reg. Ref. F14A/0483. The new internal road would provide access to 6 no. car parking spaces and a circular drop off / collection area. An additional pedestrian access is also available from within the Clairville Lodge scheme to the north of the site.
- 7.3.14. Concerns are also raised in the appeal that insufficient car parking is provided to serve the creche. Table 14.9 of the development plan sets out a car parking standard of 0.5 no. spaces per classroom in zone 2. It is proposed to provide 4 no. classrooms therefore there is a requirement for 2 no. car parking spaces. It is proposed to provide 6 no. car parking spaces, including 1 no. accessible space, and an informal drop off / collection area along the internal road. It is noted that the number of spaces is in excess of the development plan standard However, having regard to the nature and scale of the proposed creche and the distance from public transport and Malahide town centre it is my opinion that the quantum of car parking proposed is appropriate. It is noted that the planning authority raised no concerns regarding the level of car parking proposed.
- 7.3.15. Concerns are raised in the appeal that the subject site is not located in close proximity to public transport. The subject site is located c. 400m (250m as the crow flies) from a bus stop on the Malahide Road. This stop is served by the no. 42 and the no. 102c. The no. 42 operates every 25 minutes in the peak and provides connectivity between the city centre and Portmarnock. The 102c operates every 30 minutes and provides connectivity between Dublin Airport and Sutton. The site is also located c. 2.7km south west of Malahide train station. Having regard to the nature and scale of the proposed creche I am satisfied that the subject site is sufficiently served by public transport.
- 7.3.16. Concerns are also raised regarding the capacity of the surrounding road network to accommodate the development. Having regard to the nature of the proposed development and the relatively limited size of the facility I am satisfied that the impact

on the surrounding road network would be negligible. It is noted that no concerns were raised by the planning authority in this regard.

Conclusion

7.3.17. Overall, I am satisfied that the proposed creche is in accordance with Section 3.2 of the Childcare Facilities Guidelines and Objective DMSO79 of the development plan and that the proposed development would not result endanger public safety by reason of a traffic hazard.

7.4. Design and Layout

7.4.1. The proposed development comprises the construction of a 2-storey, c. 412sqm creche on a c. 0.1257 ha site. The proposed creche building is generally located on northern portion of the site and the outdoor play area, access road and car parking are generally located on the southern portion of the site.

7.4.2. Concerns are raised in the appeal and observation regarding the access arrangements to the site, the proximity of the site to the existing pump station, over development of the site and the potential negative impact on the visual amenities of the area.

Access

7.4.3. Concerns are raised in the appeal that that the access arrangements to the site are reliant on works proposed under Reg. Ref. F22A/0104. This application was for the retention of the change of use of the vehicular access previously permitted under ABP. PL 06F.245240, Reg. Ref. F14A/0483 to serve a creche to now serve the permitted and constructed pump station. This application was deemed withdrawn as the applicant failed to respond to a further information request.

7.4.4. In the response to the appeal the applicant states that it is correct to assume that Reg. Ref. F22A/0104 has been withdrawn and that the access arrangements are per the parent permission ABP PL06F. 245240, Reg. Ref. F14A/0483 and would serve the creche.

- 7.4.5. It is noted that there is an existing gated vehicular access to the site from Carey's Lane that was constructed as part of the parent permission. The red line boundary for the current appeal includes this site entrance and internal access road. I am satisfied that the proposed access arrangements form part of the current appeal site and that access to the proposed development is not reliant on any other planning application.

Pump Station

- 7.4.6. Concerns are raised in the appeal regarding the proximity of the creche to the pumping station and the negative impact for the proposed use from odour. The creche is located c. 20m north west of an existing pump station. Having regard to the nature and scale of the proposed development and to the size of the pump station I am satisfied that an appropriate separation distance has been provided. It is also noted that the separation distance between the pump station and the creche was considered acceptable under previous grants of permission on the subject site.

Overdevelopment

- 7.4.7. Concerns are raised in the appeal that the creche represents overdevelopment of the site and concerns are also raised in the observation that the design approach to the creche is out of character with the area and would negatively impact the visual amenities of the area.
- 7.4.8. Site coverage can prevent the adverse effects of overdevelopment and plot ratio is a tool to help control the bulk and mass of buildings. Having regard to the information submitted, the proposed development has a site coverage of c. 17% and a plot ratio of c. 0.3. The development plan does not set out any indicative standards for plot ratio or site coverage, however, I have satisfied that the proposed development would not result in overdevelopment of the site and that the proposed site coverage and plot ratio are appropriate at this suburban site.

Visual Impact

- 7.4.9. The proposed (c. 412sqm) creche has a contemporary design approach with a flat roof. It is 2-storeys with a maximum height of 6.7m. The external finish is predominantly brick with large sections of glazing on the southern elevation. It is my

opinion that the creche is of a high quality design and durable materials which would complement the existing dwellings in Clairville.

7.4.10. It is acknowledged that the proposed creche would be highly visible from the surrounding road network. However, having regard to the drawings and CGI's submitted by way of further information to the planning authority which I am satisfied provide a realistic representation of the creche, it is my view that the proposed creche would successfully integrate into the surrounding area and would not negatively impact on the visual amenities of existing residents.

Conclusion

7.4.11. In conclusion, I have no objection to the proposed design approach and it is my view that the design and layout of the proposed development has been well considered by the applicant. It is noted that the planning authority raised no concerns in this regard.

7.5. Residential Amenity

7.5.1. Concerns are also raised that the creche would negatively impact on existing properties to the north in terms of overshadowing and overbearing impact.

7.5.2. The proposed scheme has a maximum height of c. 6.7m (2-storeys). The northern elevation of the proposed creche building is located a minimum of c. 2m from the sites northern elevation with no. 33 Clairville Lodge and a minimum of c. 18m from the front elevation of the existing dwelling. The creche is also located a minimum of c. 70m from the rear elevation of existing dwellings that front onto Streamstown Lane.

7.5.3. The lack of a submitted daylight / sunlight assessment is noted. However, I am satisfied that this does not have a material bearing on my assessment and that potential daylight / sunlight impacts upon existing residents are in accordance with the criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site. Specifically, having regard to the separation distances to existing dwelling and the low rise height of the proposed development. Therefore, while a specific assessment has not been submitted with quantification of this impact, in my opinion the proposed development has been designed in

consideration of potential daylight and sunlight impact upon existing residents and this is reflected in the scale and layout of the proposal.

- 7.5.4. It is also my view that due to the limited height and scale of the creche building and the separation distances provided that the proposed development would not result in an overbearing impact on existing dwellings.
- 7.5.5. It is also noted that to prevent any undue overlooking it is proposed that the first floor windows on the northern elevation of the creche which serve the staff room would be permanently fitted with opaque glazing.
- 7.5.6. Overall, I am satisfied that that the nature, scale and layout of the proposed development and the separation distances provided protects existing residents from undue overlooking, overshadowing and an overbearing impact.

7.6. ***Open Space***

- 7.6.1. Concerns are raised in the appeal that the proposed creche would result in the loss of public open space currently utilised by the residents of Clairville Lodge. As part of the original permission for Clairville Lodge it was proposed to provide a creche on the subject site. Therefore, I agree with the applicant that the subject site was never envisioned as public open space.
- 7.6.2. The information submitted by the applicant does not detail the level of public open space to be retained for Clairville Lodge. However, the drawings submitted with Reg. Ref. 16A/015, and available on the planning authority's website, indicate that c. 8,760sqm of public open space is provided within the Clairville Lodge development. I am satisfied that a similar level of open space would be retained after the proposed development was constructed, as the design and layout of the proposed creche is similar to that previously approved on the site. Therefore, I am satisfied that the sufficient public open space would be retained to serve the existing residential development.
- 7.6.3. The appellants also note the now expired Streamstown Local Area Plan and consider that the LAP intended that a large area of public open space would be provided on the appeal site. The Streamstown LAP was adopted in 2009 and is now expired. It is

acknowledged that this plan has no statutory basis, however, it is noted that Map 8 Open Space of the LAP does not indicate that open space would be provided on the appeal site. I am satisfied that that proposed development is generally in accordance with the provisions of the expired LAP.

- 7.6.4. It is also noted by the appellant that there was an objective (MALHIDE 11) in the previous development plan to prepare a masterplan for Streamstown which would provide details of open space provision. This document was not produced and there is no objective to do so in the current development plan.

7.7. ***Water Services***

- 7.7.1. Concerns are raised in the observation regarding capacity of the foul network to accommodate the proposed development. The Engineering Assessment Report submitted with the application states that the foul drainage from the creche would connect to the existing foul sewer to the north ear of the site, constructed as part of the Clairville Lodge development. The existing foul system was designed to accommodate the volume anticipated to arise from the creche. The foul water would outfall to the on-site pumping station where it would be pumped to the public network. The report from Uisce Eireann raised no objection to the proposed connection to the public network. I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified.

7.8. ***Appropriate Assessment***

- 7.8.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distances to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the 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**

It is recommended that retention permission and permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The subject site is Zoned OS - Open Space in the Fingal County Development Plan 2023-2029. The land use objective is to *'preserve and provide for open space and recreational amenities'*. The vision for these lands is to provide recreational and amenity resources for urban and rural populations subject to strict development controls. A childcare facility is not permitted on lands zoned for open space. The Board considers that the proposed development would materially contravene the zoning objective, as set out in this plan. The Board, pursuant to the provisions of section 37 (2)(b) of the Planning and Development Act, 2000, is precluded from the granting of planning permission for the proposed development as none of the provisions of section 37 (2)(b) (i), (ii), (iii) or (iv) of the said Act apply in this case. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Elaine Power
Senior Planning Inspector

31st July 2023