



An
Bord
Pleanála

Inspector's Report ABP317453-23

Development	Single storey extension to rear of existing Montessori and creche building and associated site works.
Location	31 Bothar Brugha, Moneymore, Drogheda, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	22839.
Applicant(s)	Yvonne Carr.
Type of Application	Permission.
Planning Authority Decision	To grant permission subject to conditions.
Type of Appeal	Third Party v Decision
Appellant(s)	Gerry and Mary Kirwin.
Observer(s)	None.
Date of Site Inspection	20 th October 2023.
Inspector	Richard Taylor.

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1.0 Site Location and Description

- 1.1. The proposed site is located to the rear of an existing building currently in use as a creche facility. The site is located at the end of Bothar Brugha, which is a residential street comprising terraced dwellings generally two stories in height. The site is adjacent to a junction with Windmill Road. The building is two stories in height with a ridge height of approximately 8.6 metres, eaves height of approximately 5.4 metres, 9 metres in depth and overall width of 17.4 metres. There is a single storey element to the west elevation with a ridge height of 5.5 metres, an eaves height of 2.6 metres, and matching depth to the remainder of the building. To the front and side of the building there is a parking area finished in tarmac. The area to the rear is subdivided into two further areas. The western area is used as play space and is hard surfaced, with free standing play equipment, shed/outbuildings located adjacent to the western boundary, and a free-standing canopy structure adjacent to a wall that separates the two areas. There is a further grassed area adjacent to the eastern boundary which is separated from the adjacent play area by a wall and fencing above. Boundary treatments comprise a mixture of walls and timber fencing to the western, southern, and eastern boundaries approximately 2 metres in height. There is an access passageway located between the gable of the building and the eastern boundary.
- 1.2. The appeal site is the only non-residential use within the immediate locality, with dwellings located immediately adjacent to the east, south, and west.

2.0 Proposed Development

- 2.1. The proposal comprises a single storey flat roof extension to the rear of the existing building in the southeastern corner of the site and will replace the existing walled off area. The extension has an eaves height of 3.37 metres to the parapet of the roof at the highest point. The proposal is approximately 9.9 metres in overall length and 5.4 metres and width. It is rectangular in shape and narrows in width where the extension meets the main building. It is subdivided internally to provide a toddler sleep room, approximately 27.35 square metres in area with access directly to the main building. To the rear there is a separate staff room with external access door to the southern boundary (revised following a further information request). The

extension is separated from the eastern side by a passageway/access path, varying from 1 metre to approximately 1.2 metres in width due to the alignment of the boundary. The extension is set off the rear boundary between 0.8 metres increasing to approximately 2.1 metres due to the alignment of the rear boundary. Proposed finishes comprise smooth render. The western elevation includes 3 windows and access door to the porch blank section where the extension meets the main building (revised following a further information request).

3.0 Planning Authority Decision

3.1. Decision

The Council issued a notification of decision to grant permission on 2nd June 2023 subject to 6 conditions including:

4. Prior to the commencement of development the applicant shall submit for the written agreement of the planning authority:

Revised plans and elevation drawings illustrating the relocation of the door serving the staff room from the southern (rear) elevation to the western elevation, or the provision of a direct internal access through the toddler sleep room.

6. Children shall not be permitted along the passageway to eastern elevation of the property.

Reason: to comply with condition 3 of Reg ref 15237 and to protect the residential amenities of the neighbouring property.

Remaining conditions relate to requiring development being carried out in accordance with the plans, development contributions totalling € 2529, hours of operation for building works, and access and drainage.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first planning report is dated 2nd December 2022 and notes the following:

- One observation received, issues raised including impact on amenity is considered. This observation was from the appellant.

- Satisfied that the scale of extension proposed is acceptable and not adversely impact on visual or residential amenity, however concerns are identified with the siting and location of doors and windows adjacent to the eastern boundary and potential impacts on neighbouring properties and relation to noise disturbance.
- Infrastructure section response noted requesting further information in relation to sightlines visibility, parking and entrance kerb.
- Site is not vulnerable to flooding. Surface water to be disposed by a new soakaway however details have not been provided.
- Development contributions totalling € 2529 are applicable to the proposal.
- It is concluded that further information is required to resolve issues relating to noise, soakaway, access and parking details, and refuse storage.
- The second planning report is dated 1st June 2023 and states the following:
- A further observation received in response to the further information submission from the adjacent resident, who is also the appellant.
- Concluded that the responses to the further information request adequately resolve the issues raised, there will be no adverse impact on residential amenity, and is in accordance with the development plan.

3.2.2. Other Technical Reports

Louth Placemaking and Physical Development Section: first report dated 14th November 2022 further information requested further information on sightlines, upgraded dished vehicular access, car parking and surface water details.

Second report dated 24th May 2023 recommends a grant of permission subject to conditions.

4.0 Planning History

Reference: 01510162 - Change of use from dwelling to preschool building, together with single storey extension to side, also demolish existing garage and construct new two storey 3 bed townhouse, associated site works. Approved 18th December 2001.

Reference: 15237 - Retention for change of use from a dwelling to use as extension to the existing creche and Montessori school. Granted 13th July 2015 subject to five conditions including the following of relevance:

3. Children shall not be permitted access to the garden area to the rear of the property or the passageway along the eastern elevation of the property as indicated on drawing number: PP-01 submitted to the planning authority.

Reason: to protect the residential amenities of the adjoining properties.

4. The hours of operation shall be 7.45 AM- 6.00 PM Monday to Friday as specified to the planning authority.

Reason: to prevent unauthorised development and protect the residential amenities of neighbouring dwellings.

5.0 Policy and Context

5.1. Development Plan

Louth County Development Plan 2021-2027 (as varied) (LCDP) is the operative plan for the area.

Zoned A1 existing residential with the objective “to protect and enhance the amenity and character of existing residential communities”.

4.11 Childcare Facilities: The provision of childcare facilities is acknowledged as a vital component of social infrastructure, fundamental to national economic and social wellbeing as it facilitates participation in the workforce, education and social networks. The Council supports the sustainable development of good quality and accessible childcare facilities in the County. The ‘Childcare Facility Guidelines for Planning Authorities (DEHLG 2001)’ advocates a pro-active role by planning authorities in the promotion of increased childcare provision, whilst simultaneously protecting residential amenities.

SC 37: To permit childcare facilities of appropriate size and scale in settlements, in proximity to existing community and/or educational facilities and in existing residential areas provided they do not have a significant negative impact on the

character or amenities of an area, particularly with regard to traffic generation, car parking and noise disturbance.

Chapter 13 – Development Management Guidelines (page 13-8), including:

13.8.9 Residential Amenity.

13.12.1 Childcare.

13.16 transport, including access and car parking.

13.20 water services.

13.20.4 sustainable drainage.

IU13: to require that all development taking place within an area served by a public wastewater treatment system connects to that system.

IU19: to require the use of sustainable training systems to minimise and limit the extent of hard surfacing and paving and require the use of SUDS measures to be incorporated in all new development. Proposal shall be accompanied by a comprehensive SUDS assessment including runoff quality, quantity, and impact on habitat and water quality.

IU26 and 27 relating to flooding.

NBG 4, 5, and 6: relating to undertaking Appropriate Assessment and ensuring no development giving rise to significant cumulative, direct, indirect or secondary impacts on European sites.

National Planning Policy:

National Planning Framework

National Development Plan 2018-2027

Other Relevant Policy / Guidance:

Childcare Facility Guidelines for Planning Authorities (DEHLG 2001).

Design Manual for Urban Roads and Streets (DMURS), 2013.

Appropriate Assessment of Plans and Projects in Ireland; Guidance for Planning Authorities, 2010.

5.2. Natural Heritage Designations

The appeal site is not within or adjacent to a protected European Site. The closest sites are as follows:

River Boyne and River Blackwater SAC, side code IE 0002299, c.0.5 kilometres from the site.

Boyne Estuary SPA, site code IE 0004080, c.2.1 kilometres from the site.

Boyne Coast and Estuary SAC, site code IE 0001957, c.3.2 kilometres from the site.

River Boyne and River Blackwater SPA, site code 004232, c2.7 kilometres from the site.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest 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

- Positioning of the proposal: the extension is located in an area that was subject to a restrictive condition precluding the use of this area by children and associated operations by the previous application reference 15237 for the retention of the extended creche facility. The proposed extension will directly contradict the intent of that condition, will greatly add to the floor area of a considerable business in a residential street and impact on the amenity of our property and residential community as a whole.

- Scale and mass of extension: there will be significant overshadowing of the garden from approximately 4:00 PM. The proposal will measure 3.37 metres in height and extend the full length of our boundary wall. The existing boundary wall measures 2 metres and has a 0.6 metres wooden fence on top which was begrudgingly agreed with the applicant as a means of screening and maintaining privacy. This structure casts a significant shadow and the development will cause further impacts on enjoyment of the garden.

6.2. Applicant Response

The applicant has responded as follows:

- The site has permission for creche use, granted on 18th December 2001 under planning reference 01510162. Application reference 15237 was granted to convert the attached dwelling number 31, as part of the existing creche.
- Condition 3 of the previous permission is fully adhered to by the applicant and no children play in this space. The application will not be in breach of this condition. The creche needs a designated baby and toddler sleep room. It will not increase the current creche numbers or generate additional income for the applicant and is necessary due to a requirement of Tulsa 's preschool regulations and is the only suitable location for the extension. The extension will create a further buffer between the appellant's garden and existing play area.
- Details of the current operations are provided as follows:
- Operating hours are 7 45 AM to 6:00 PM Monday to Friday offering full day-care, part-time care and sessional ECCE care. After schoolchildren are accommodated at another premises at 83 Windmill Road. Children aged 1-5 years are cared for at the site. 14 staff are employed. There is an increase in children attending with additional needs. If permission is granted, the applicant intends to change the current staff room into a sensory room which will be accessible to all children but will be particularly beneficial to children with additional needs as they will have a dedicated quiet room with necessary equipment to stimulate their development.

- A dedicated sleep room is a requirement in the preschool regulations, details of the regulations are listed. The lack of suitable sleeping facilities has always been commented on by Tulsa preschool inspectors.
- Scale and mass of the extension: the appellant has a southern facing garden which benefits from sunshine all year round. The proposed single storey flat roof extension will have minimal impact on the neighbouring garden and was specifically designed to ensure no impacts will occur. Additional changes and enhancements were included in response to the further information request issued by the Council.

6.3. Planning Authority Response

- The Planning Authority response is dated the 6th of July 2023 and states the following:
- Condition 3 of the previous approval was given due consideration and further information was sought to relocate 2 windows and 2 doors from the eastern elevation given the proximity to the neighbouring property and potential noise issues. This was undertaken by the applicant by a further information submission and a condition was attached to the recommended granted permission, condition 4, requiring the door to the staff room to be moved from the southern (rear) elevation to the western elevation or to be internally linked within the extension. The overall design, use of internal rooms and reconfiguration of windows and doors will not adversely impact on amenity of the neighbouring property. Condition 6 of the recommended granted permission stipulates that children shall not be permitted along the passageway to the eastern elevation of the property in order to comply with conditions 3 of the previous permission.
- The extension will not adversely impact on residential amenity and will not result in adverse overshadowing due to the single storey height.

6.4. Observations

- None received.

6.5. Further Responses

- None received.

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in grounds of appeal, and I am satisfied that no other substantive issues arise. Appropriate Assessment (AA) also needs to be considered. The main issues, therefore, are as follows:

- (a) Principle of the development.
- (b) Location of the Extension and Planning History.
- (c) Impact on amenity.
- (d) Appropriate Assessment (AA).

(a) Principle of the development

7.2. The proposed site is located within a largely residential area within an urban area of Drogheda. I note from the LCDP that there is policy support for the provision of creche facilities. The policy directs that such proposals are required to be in accordance with a range of childcare related requirements as specified by a number of relevant organisations, including Tulsa, at paragraphs 4.11, 13.8.26, and 13.12.1 Policy SC37 supports these uses in existing residential areas provided they do not have a significant negative impact on the character or amenities of an area, particularly with regard to traffic generation, car parking and noise disturbance. The need for appropriate childcare facilities is therefore acknowledged and supported in the plan. However SC37 requires such proposals not to result in a significant negative impact on character and amenity of an area. Accordingly, in this context, there is policy support for the proposal subject to detailed considerations.

(b) Location of the Extension.

7.3. The appellant objects to the location of the proposed extension, referring to application reference 15237, which related to the retention of a change of use from a dwelling as an extension to an existing creche and Montessori school, and in

particular to condition 3 of that approval which precluded children from accessing the garden area to the rear of the property, or the passageway along the eastern elevation. I have reviewed the details of this permission. The plans relate to an extended gable section of the original building which is broadly rectangular in shape, and includes a rectangular area of the rear of the site all of which is located immediately adjacent to the appellant. The proposal will almost entirely occupy this area, save for an access path approximately one metre in width from the existing boundary wall between the properties.

- 7.4. The purpose of the condition was to protect the amenity of the neighbouring residents from noise disturbance from activities associated with the creche in this location. On balance I do not consider that development of this area is precluded in perpetuity by this condition however any redevelopment of this area must be considered on its own merits, relevant policy context, ensure that it is in compliance with SC 37, and not result in any negative impact on character or amenity.

(c) Amenity Impacts

- 7.5. I note from the submitted planning report that the Council requested revisions to the original design to mitigate impact of the proposal. These revisions principally related to the removal of windows and doors on the eastern elevation. The revised proposal, which is subject to this appeal, shows the relocation of the access door and windows to the staff room at the rear of the extension to the rear elevation, with the retention of three windows to the western elevation. The Council has requested the relocation of the staff access door to either the western elevation, or internally by planning condition. A free-standing bin store structure 3.37 metres in length, 0.85 metres in depth and 1.417 metres and height (highest point) is located in the southeastern corner of the site to the rear of the proposed extension and adjacent to the common boundary with the adjacent existing dwelling at number 30. The proposal retains the flat roof structure, roof lights, and eaves height remains at 3.37 metres.
- 7.6. The eastern gable of the extension is located between approximately 1-1.2m from the boundary, and approximately 4.2 metres from the gable of the adjacent existing dwelling at number 30. The boundary is approximately 2.6 metres in height, comprising a 2 metre wall with fencing 0.6 metres in height above. The aspect of the site is orientated north to south. Accordingly, the rear amenity area of number 30

would benefit from day/sunlight for the majority of the day, diminishing from late afternoon into evening. The height of the extension would be approximately 0.77 metres above the height of the existing boundary. On balance I consider that the height of the extension would be mitigated by the separation distance from this boundary and impacts would be limited in nature to the evening. Accordingly, I do not consider at the height of the proposal would result in a significant additional overshadowing impact on the existing property adjacent. In addition, the proposal would not adversely impact the neighbouring property in terms of dominance due to a combination of separation distances and the scale and nature of the existing common boundary between the properties. The proposal would not result in any loss of privacy as there are no longer any window openings within the closest elevation.

- 7.7. I note that this proposal will not increase the number of children cared for at the facility and also that the facilities proposed are a requirement by the regulatory authorities for childcare, and that the applicant is seeking to comply with these standards through this proposal. The relocation of the access door to the staff room to the western elevation is requested by way of condition by the Council, rather than on the southern elevation as indicated on the further information plans. The relocated door position would increase separation distances to the neighbouring dwelling at number 31 and also mitigate noise impacts from use of this room. I therefore consider that the proposal will not result in a significant additional noise impact taking account of these factors and given the nature of uses for the rooms proposed.
- 7.8. Following the above assessment, I conclude that the impact on neighbouring amenity would not be significant. I also consider that the proposal would not adversely impact on the amenity or character of the local area.
- 7.9. I am satisfied that the proposed design is sympathetic to the building and the materials are acceptable. The proposal will not therefore adversely impact on local character.
- 7.10. I am satisfied that the proposal will not result in any flooding, drainage, traffic safety or related issues due to the nature of the proposal and taking account of the positive response from the Place Making and Physical Infrastructure section of the Council.
- (d) Appropriate Assessment (AA).

7.11. Having regard to the nature and scale of the proposed development 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.

8.0 Recommendation

8.1. I recommend a grant of permission, subject to conditions.

9.0 Reasons and Considerations

Having regard to the current Louth County Development Plan, 2021-2027 and all material considerations, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation, drainage proposals, or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application to the planning authority on 24 th October 2022, as amended by the further information date received 12 th May 2023, 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 interests of clarity.
2.	Prior to the commencement of development the applicant shall submit for the written agreement of the planning authority revised plans and elevation

	<p>drawings illustrating the relocation of the door serving the staff room from the southern (rear) elevation to the western elevation, or the provision of a direct internal access through the toddler sleep room.</p> <p>Reason: in order to safeguard the residential amenities of property in the vicinity.</p>
3.	<p>Children shall not be permitted within the passageway between the existing building and extension hereby permitted and the eastern boundary of the site at any times.</p> <p>Reason: in order to safeguard the residential amenities of adjacent properties.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
5.	<p>a) prior to the occupation or use of the development hereby permitted, the dished vehicular access shall be upgraded as per the design details provided on drawing no. FI-02 to the satisfaction of the planning authority.</p> <p>b) surface water drainage proposals shall be in accordance with the BRE365 soakaway design report prepared by Hydrocare Environmental Ltd civil infrastructure report and associated surface water drainage drawings and site layout plan.</p> <p>c) the applicant shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road and footpath arising from the construction work and shall either make good any such damage forthwith to the satisfaction of Louth County Council or pay to the Council</p>

	<p>the cost of making good any such damage on a demand there of being issued by the Council.</p> <p>d) All necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developers own expense.</p> <p>. Reason: in the interests of traffic safety and orderly development and to ensure the provision of a sustainable surface water drainage system on site.</p>
6.	<p>. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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 to determine.</p> <p>. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

.Richard Taylor
Planning Inspector

3rd November 2023