



An
Bord
Pleanála

Inspector's Report ABP-318767-23

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| Development | <i>Change of Use from Montessori School to residential use and all associated site works</i> | | |
| Location | <i>22 Sylvan Drive, Grantstown Park, Waterford X91 Y438</i> | | |
| Planning Authority Ref. | <i>2360406</i> | | |
| Applicant(s) | <i>Colm Browne</i> | | |
| Type of Application | <i>Permission</i> | PA Decision | <i>Grant Permission</i> |
| Type of Appeal | <i>Third</i> | Appellant | <i>Michael Murphy</i> |
| Observer(s) | <i>None</i> | | |
| Date of Site Inspection | <i>08/03/2024</i> | Inspector | <i>Andrew Hersey</i> |

Context

1. Site Location/ and Description. The site is located at 22 Sylvan Drive which is an suburban estate to the west of Waterford City. There is an existing detached dwelling on a corner site with frontage onto Sylvan Drive and frontage onto the distributor road serving the area. The house has a front parking area and rear gardens. The side area of the house which fronts onto the distributor road comprises of a Montessori School at ground floor level which is subject to the proposed change of use. There is direct access to the said school from the distributor road which widens out at this location allowing for on street parking.

2. Description of development. The proposed development comprises of:

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| <ul style="list-style-type: none"> • Change of use of part of the house which is used for use as a Montessori into residential use • This proposed use is to be incidental to the use of the main dwelling. Plans in this regard show an internal connection to the main dwelling |
| <p>3. Planning History.</p> <ul style="list-style-type: none"> • Planning Reg. Ref. 23500239 in the name of Colm and Ruth Browne granted permission to extend the house to the rear with a first floor extension to the side front and rear • Planning Reg. Ref. 97500175 granted permission to a Mrs R White for change of use from shop to Montessori School • Planning Reg. Ref. 00508373 granted permission for a shop |
| <p>4. National/Regional/Local Planning Policy</p> <ul style="list-style-type: none"> • The Waterford County Development Plan 2022-2028 is the operative plan for the area. • The site is zoned 'Existing Residential' within the said plan where it is the objective to <i>'Provide for Residential Development and protect and improve residential amenity'</i> |
| <p>5. Natural Heritage Designations</p> <ul style="list-style-type: none"> • The Tramore Back Strand SPA (Site Code 004027) is located 7.5km to the north of the subject site |

Development, Decision and Grounds of Appeal

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| <p>6. PA Decision.</p> <ul style="list-style-type: none"> • Permission was granted subject to two conditions only - Condition 2 stipulates that the development permitted relates to the change of use from a Montessori School to residential use |
| <p>7. Internal Reports</p> <p>None received</p> |

8. Prescribed Bodies

- None received

9. Submissions

There is one submission on file from a Michael Murphy (received 5th October 2023) whom raises concerns with respect of the following:

- Site ownership
- Loss of childcare facility in the area
- The need for further residential space.
- Issues with respect of boundary treatment
- Non-compliance with Planning Reg. Ref. 03/500239

10. Third Party Appeal. :

A third party appeal was lodged by a Michael Murphy (dated 22nd December 2023). The grounds of the appeal relate to:

- That the said house is subject to ongoing enforcement action by Waterford City and County Council.
- The said house has not been constructed in accordance with the permission granted under 03500239
- That the loss of a childcare facility in the area contravenes the statutory development plan for the area and the Section 28 Childcare Facilities Guidelines.
- That the house is already large enough

11. PA Response

- None received

12. Observers

- *None received*

13. First Party Response to Appeal (received 26th January 2024)

- That the applicants after 27 years of operating a Montessori School at this location decided to construct a new purpose built school on a derelict site of the old Ballygunner National School.
- The reason for this is that it was becoming difficult to comply with regulations set out by Tulsa. The new school also provided a much increase in numbers of children being looked after.
- Permission was granted for the new school under Planning Reg. Ref. 21/837.
- The family home and attached Montessori had to be sold to fund the new school development
- The house was sold to a third party and one of the conditions of sale was that permission be sought for the change of use of the Montessori to residential use.
- The applicant believes that the said appeal is vexatious.
- That there is no enforcement case open on the property as the council are statute barred from doing so (the extension is built for almost 20 years.
- That the changes to the elevations from the drawings submitted under 03500239 do not require planning permission or such changes are so minor in nature from the permitted plans that they are immaterial
- That there are sufficient numbers of childcare places to meet the preschool needs of the local population.

Environmental Screening

14. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

15. AA Screening

Having regard to the modest nature and scale of development, and the absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Introduction

- 2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.
- 2.1.2. I refer to the allegations of the first party with respect of the vexatious nature of the appeal. I am of the opinion that the issues raised in the third appeal have raised issues related to planning and are therefore merit examination.
- 2.1.3. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-
- The Principal of the development
 - Issues with respect of unauthorised works
 - Loss of a childcare facility from the area

2.2. The Principal of the Development

- 2.2.1. The proposed development comprises of the change of use of a Montessori School which is attached to a residential dwelling at 22 Sylvan Drive, to residential use. I note that the development description includes that the said area subject to the change of use will be ancillary to that of the main dwellinghouse.
- 2.2.2. I note that the proposed development is located in an area zoned as 'Existing Residential' in the Waterford City and County Development Plan 2022-2028 where is

it is the objective of the said plan to *‘Provide for Residential Development and protect and improve residential amenity’*

2.2.3. I would consider that the proposed change of use complies with this land use zoning objective and as such the proposal in principle is acceptable.

2.2.4. I also refer to the first parties assertions that the existing house is already large enough and does not require further floorspace. With respect to the same I note that the existing house has a floorspace of circa 190sq.m. and the area subject of the change of use has a floorspace of 50.88sq.m. While the house is large in a suburban setting I would consider that it is similar to other detached houses along the avenue where it is located and is therefore not out of context with the general area.

2.3. Issues with respect of unauthorised works

2.3.1. I note the third and first parties comments with respect to aspects of the as built extensions as granted under Planning Reg. Ref. 03500239.

2.3.2. I have examined the building on site, examined the drawings submitted under the above planning reference number and have examined the details submitted in the appeal and the first parties response to the appeal and I am of the opinion that the changes to the elevations as permitted under Planning Reg. Ref. 03500239 are minor in nature, have no impact upon the visual amenities of the area and the residential amenities of adjacent properties and are therefore in my opinion immaterial. In this respect, I am generally satisfied therefore that there are no outstanding issues with respect to unauthorised works.

2.3.3. With respect to any enforcement action taken by the local council on this issue as suggested by the appellant, I refer to the response to the appeal submitted by the first party whom states that there is no enforcement case open. The extension works as constructed are built almost 20 years ago and therefore the council are statute barred from any enforcement action. In any rate as stated above, I consider that the changes are immaterial and in no way impact upon the development for which permission is being sought i.e. a change of use for part of the house from a montessori to residential.

2.4. Loss of a Childcare Facility

2.4.1. I refer to the third parties concerns with respect to the loss of a childcare facility in the area.

2.4.2. I also refer to the first parties response to the appeal which states the following:

- That the applicants are building a new purpose built Montessori School in the area as granted under Planning Reg. Ref. 21/837. The construction of this school will provide accommodation for double the number of children than that when they operated at 22 Sylvan Drive.
- That investigations were carried out by the first parties agent whom examined CSO Statistics for the area and examined existing preschool facilities in the area and found that there are sufficient preschool places available in the area to meet the needs of the population.

2.4.3. On the basis of these investigations I am satisfied that the loss of the childcare facility at his location is acceptable and will not have an undue impact upon the requirement for such services in the area in general.

3.0 Recommendation

3.1. I recommend that permission for the development be granted permission.

4.0 Reasons & Considerations

4.1. Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with zoning objective for the site as set out in the Waterford County Development Plan 2022 – 2028, would not be injurious to the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

5.0 Conditions

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| 1. | <p>The development shall be carried out in accordance with the plans and particulars lodged with the application, 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.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>The development permitted relates to the change of use from a Montessori School to residential use and shall be jointly occupied with the main house at 22 Sylvan Drive as a single residential unit. The application site subject of this change of use shall not be let, sold or otherwise transferred or conveyed save as part of the overall dwelling.</p> <p>Reason: To protect the amenities of property in the vicinity</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.

Andrew Hersey
Planning Inspector
21st March 2024