



An  
Bord  
Pleanála

## Inspector's Report ABP-318830-24

<b>Development</b>	Demolition of study room and extension to childcare and family support unit
<b>Location</b>	Ard na Gréine, An Cheapaigh, Daingean Uí Chúis, Co. Chiarraí
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	23472
<b>Applicant(s)</b>	Áiseanna na hÓige
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Social Housing Company
<b>Date of Site Inspection</b>	10 <sup>th</sup> & 11 <sup>th</sup> April, 2024
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The site of the proposed development, stated to be 2.566 hectares in area, is located within the Ard na Gréine housing estate at the north-east of the town of Dingle in West Kerry. There is a childcare and family support unit in the form of a single-storey building on the site. This includes play areas to the front and rear and car parking to the south and rear. A turning circle adjoins the parking area to the south. There are two-storey, semi-detached houses to the east and north.

## **2.0 Proposed Development**

- 2.1. The proposed development would consist of a new extension to the childcare and family support unit, amendments to the layout, and associated site works. The proposal would include the demolition of a study area and the provision of two childcare units, a study, and a covered play area at ground floor level and the development of seven childcare units and staff and ancillary accommodation at first floor level. The total floor area of the proposed development would be 379.4 square metres of which 124.7 square metres would be at ground floor level and 254.7 square metres would be at first floor level. It would also include the addition of four car parking spaces. The proposed development would be served by public foul sewer and watermains.
- 2.2. The applicant is the stated owner of the 2.566 hectare site.
- 2.3. Further details in support of the application, following a request from the planning authority, were submitted on 13<sup>th</sup> October, 2023. These included an updated public notice to include demolition proposals, confirmation that there would be four additional staff (providing a total of 19 staff), and confirmation that there would be an extra 25 children available to fill the school extension, with the full complement now attending the school being 150. The opening hours of the unit were confirmed as being from 9am-9pm. A report on traffic management, a layout with additional parking, a report on storm water drainage, calculation of surface water volumes, and details on a proposed hydrobrake were also submitted.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 12<sup>th</sup> December 2023, the planning authority decided to grant permission for the proposed development subject to five conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's first report noted the planning history, development plan provisions and the reports received. It was recommended that further information be sought relating to the demolition proposed, staff numbers, number of children being catered for on the site, hours of operation, traffic measures and a traffic management plan, additional parking, and site drainage measures.

A further information request was issued in accordance with the recommendation.

Following the receipt of further information, the Planner noted the submission of same, the report of the Area Technician for the Roads and Transportation Section, and a third party submission. A grant of permission was recommended subject to conditions.

#### **3.2.2. Other Technical Reports**

The Area Technician for the Roads and Transportation Section sought further information relating to measures to address potential congestion on the public road with the increase in clients, provision of additional parking arising from increase in staff, and drainage layout details and drainage design for the new extension.

Following the receipt of additional information, the Area Technician set out a schedule of conditions required to be met.

### **3.3. Prescribed Bodies**

Uisce Éireann noted a connection agreement is required to connect to the public water and wastewater network. It was noted that its infrastructure will be subject to

the constraints of its investment programme and that all development is required to be carried out in compliance with its codes and practices.

### **3.4. Third Party Observations**

A submission was made by Social Housing Co. Concerns were raised about traffic congestion on the public road and the prematurity of the proposal pending a determination on the creation of a childcare hub.

## **4.0 Planning History**

P.A. Ref. 04/620

Permission was granted to erect a childcare facility and a community centre.

It is noted from the Planner's report that the community centre was not built and the area associated with it encompasses a play area.

## **5.0 Policy Context**

### **5.1. Kerry County Development Plan 2022-2028**

Volume Six

*Development Management Standards & Guidelines*

#### **1.7.2 Childcare Facilities**

All childcare facilities shall have regard to the provision of childcare facilities in appropriate locations as set out in accordance with the provisions of the DoEHLG 'Childcare Facilities Guidelines for Planning Authorities' (2001) and seek to apply Universal Design Guidelines for Early Learning and Care Settings (2019) from the National Disability Authority and Department of Children and Youth Affairs and Early Childhood Ireland. Development of childcare facilities at the following locations subject to other planning criteria are generally acceptable ...

- Within new and existing residential developments (at an appropriate scale to serve the immediate area) ...

Planning applications for all childcare facilities shall be assessed for compliance with the following criteria:

- Suitability of the site for the type and size of facility proposed
- Impact on residential amenity of surrounding residential development, noise, loss of residential amenity, traffic generation and general disturbance
- Adequate availability of indoor and outdoor play space
- Convenience to public transport nodes, pedestrian and cycling facilities
- Local traffic conditions
- Safe access and sufficient convenient off-street car parking and/or suitable drop-off and collection points for customers and staff
- Number of such facilities in the area.

## **5.2. Corca Dhuibhne Electoral Area Local Area Plan 2021-2027**

The site is zoned R2 Existing Residential in the Local Area Plan 2021-2027.

## **5.3. EIA Screening**

Having regard to the nature, scale and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of the appeal may be synthesised as follows:

- The excessive traffic generated by the childcare facility, associated with inadequate provision for on-site parking and dangerous set down area further detracted from the established residential amenity of the existing housing estate. Any further intensification of the childcare facility and family support service will only further detract from the residential amenity of the residential

area and cause further traffic safety issues. Increasing intensity will generate additional noise and disturbance for residents. The proposals need to be revised as they represent a wholly inappropriate proposal in the context of the site setting.

- The applicant has failed to demonstrate that the provision of a satisfactory set down area could be provided to accommodate the intensification of use. The proposals represent an unsafe, unrealistic design solution with significantly compromised sight lines associated with the exit point to the roundabout. Parking along the roundabout is unworkable.
- Resulting in additional visitors and vehicles to and from the site, the intensification of use would have a negative impact on residential amenity and would be considered overdevelopment of the site.
- The Traffic Management Plan presents no meaningful design solution to the existing traffic congestion on the public road during drop-off and collection periods. It failed to recognise that the proposed works to the public road as part of planning application 22/533 (ABP-315615-23) would reduce the length of the queuing zone to the Áiseanna na hÓige's set down area. The proposed drop-off design does not significantly differ from the existing layout and this is causing significant queuing along the public road.
- It is submitted that the total allowable capacity for the building is 44 children. The facility is operating in excess of the design loading and this is putting excess strain on the complex and the surrounding environment. Adding to the loading on the building would exacerbate the inadequacies/constraints.
- An addition to the facility cannot be permitted without first providing a safe approach and provision of additional space/site area for additional parking and play areas.
- Regarding Áiseanna na hÓige's appeal against Planning Application 22/533 (ABP-315615-23) and its request for the creation of a childcare hub, if the Board was to concede to this request the proposals the subject of this appeal would be premature. The childcare facilities proposed as part of Planning Application 22/533 (ABP-315615-23) adjoining the appeal site might be

adequately sized to cater for the childcare needs of the region rather than further overdeveloping the site with an inappropriate sized extension.

- The proposal fails to meet with general operating standards for the existing and proposed development.
- The design of the proposed extension will be out of character with the existing architectural style of the surrounding housing developments.
- The proposed development would set an undesirable precedent for other similar developments which would be harmful to the residential amenities of the area.
- It is queried if permission for retention is required. The facility is considered unauthorised development and a new proposal should not be considered until the existing facility achieves full planning compliance. The non-compliance includes the following:
  - Planning application 04/620 was for the erection of childcare facilities and is the only permitted use. The existing facility on the site provides a family support service, prevention services, as well as parent and baby group, life coaching and counselling services. The building has no planning permission for these uses. The application should be revised to incorporate the retention of these uses.
  - Site boundaries of 04/620 differ significantly from the boundaries of the current application. It is queried if there is a need for a retention of existing site boundaries.
  - The development permitted under 04/620 differs very significantly from the existing floor plan. The elevations differ significantly also. The plans with the current application do not correspond with the existing floor layout of the building.
  - Condition 4 of 04/620 required a detailed colour scheme to be agreed and there is no record of compliance with this.
  - Condition 5 of 04/620 required cross section details and whilst the drawing was submitted the actual construction work was not undertaken in compliance with the ground levels shown.

- Condition 13 of 04/620 required details of boundary treatment to be submitted. This was not submitted and the boundary treatment did not comply with the requirements of the condition.
- If the planning drawings do not correspond with the existing building, it is queried does the fire certification drawings correspond to the constructed building.
- It is also queried how was public money accessed to construct an unauthorised structure.
- There is a right of way through the property to facilitate a watermain. The planning submission has not demonstrated compliance with required separation distance from the pipe and the extension does not comply with Irish Water criteria.

Appendices attached include Department of Transport road markings provisions, a drawing indicating parking deficiencies, an extract from an appeal submission relating to ABP-315615-23, childcare provider details within the building, general operating standards for childcare use and a comparison with the proposal development, and a document from the applicant referring to the benefit of a childcare hub.

## 6.2. **Applicant Response**

The applicant's response to the appeal may be summarised as follows|:

### Vexatious Appeal

- The Board is asked to exercise its discretion under section 138 of the Planning and Development Act and to dismiss the appeal as it is intended to cause nuisance, with the appellant adopting a flippant attitude to the appeals process.

### Traffic Hazard and Congestion

- The proposed traffic management design solution is very much workable and will provide a significant and meaningful improvement to existing traffic congestion issues during drop-off and collection periods by providing improved alternatives.



- The Mobility Management Plan aims to improve operational, traffic and road safety conditions.
- Appendix C attached with the appeal should be rejected as it relates to a different development and has no relevance.
- The Board is directed to the figures given in the submitted Traffic Management Plan.
- The existing facility is voluntary, on land gifted by the local authority, and its use is compatible with the residential zoning.
- The suggestion that the dual use in terms of providing adult support to families is inappropriate reflects an inflexible mindset as to the use of buildings built with public funding. This use takes place at a different time to the primary use.

#### Set Down, Parking and Sight Distances

- The access and set down area are existing and have operated successfully for 15 years.
- The sight distance requirement referenced in the appeal is misplaced and inappropriate in this instance with access within a housing estate.
- It is proposed to significantly enlarge and reconfigure the existing set down area.
- Adequate buffer zones are being provided for parking spaces.
- An additional 8 formal parking spaces are to be provided (62% increase).
- The proposed set down area has the capacity to remove parking from the public road.

#### Building at Over Capacity

- An analysis of the floor areas and staffing requirements is provided as an appendix. This refutes the suggestion that the building is operating above capacity.

- It is noted that many of the rooms were left out in the appellant's calculations, that a large open space adjacent to the site is available to the children, adequate sleeping facilities are provided, and the facility operates a private bus to shuttle children at certain times.
- It is a well-designed facility and its design is sympathetic to its use.
- Parking standards in the Development Plan are the maximum permissible and the Plan allows a flexible approach to their application. The Council considers the number of spaces and the set down spaces adequate.

#### The Need for Retention

- Enforcement is not a matter for the Board and the application was accepted by the planning authority. This part of the appeal is of no relevance.
- The use of the premises in providing adult support for families is compatible with the use of a childcare facility. Parents will regularly attend such facilities and the provision of advice is compatible with the use of the premises. It does not fall to the Board to determine whether this constitutes a change of use as no Section 5 referral has been made to it.

The response includes a rebuttal on the issue relating to overdevelopment of the site.

### **6.3. Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

## **7.0 Assessment**

### **7.1. Vexatious Appeal**

- 7.1.1. The applicant has asked the Board to exercise its discretion under section 138 of the Planning and Development Act and to dismiss the appeal. The applicant submits that the appeal is intended to cause nuisance, with the appellant adopting a flippant attitude to the appeals process.

7.1.2. I first acknowledge the appeal submission content. This includes the following:

*“Aiseanna na hOige (sic) made an appeal to An Board Pleanála (sic) against a successful grant of planning permission for the provision of a child care facility and social housing on an adjoining field made by the Social Housing Company, Case Number ABP-315615-23, and as a consequence we have decided to return the favour.*

*Whilst we would not have appealed this application if Aiseanna na hOige (sic) had not appeal (sic) our proposals, but as the opportunity has now presented itself, ... ”*

7.1.3. Secondly, I note the provisions of section 138 of the Planning and Development Act, 2000, as amended, as follows:

**138.—(1)** *The Board shall have an absolute discretion to dismiss an appeal or referral—*

*(a) where, having considered the grounds of appeal or referral or any other matter to which, by virtue of this Act, the Board may have regard in dealing with or determining the appeal or referral, the Board is of the opinion that the appeal or referral—*

*(i) is vexatious, frivolous or without substance or foundation, or*

*(ii) is made with the sole intention of delaying the development or the intention of securing the payment of money, gifts, consideration or other inducement by any person,*

*or*

*(b) where, the Board is satisfied that, in the particular circumstances, the appeal or referral should not be further considered by it having regard to—*

*(i) the nature of the appeal (including any question which in the Board’s opinion is raised by the appeal or referral), or*

*(ii) any previous permission which in its opinion is relevant ...*

7.1.3. While I consider the introductory paragraphs of the appeal submission to be somewhat flippant, I must acknowledge the overall content of the submission. I am of the opinion that the core of the appeal raises significant planning issues which are not frivolous or without substance.

## 7.2. Principle of the Development on the Site

7.2.1. Volume Six of the Kerry County Development Plan incorporates the development management standards and guidelines. Section 1.7 refers to “Non-Residential Development” and Section 1.7.1 relates to “Community Facilities”. Community facilities are stated to include childcare facilities. In assessing planning applications for development such as this, regard is required to be taken of considerations such as:

- Overall need in terms of existing infrastructural deficit and opportunity for community gain;
- Practicalities of site location in terms of relating to uses, impact on local amenities, desirability and accessibility;
- The potential multifunctional use of community facilities; and
- Conformity with the requirements of appropriate legislative guidelines, for example childcare facilities

7.2.2. Section 1.7.2 relates to “Childcare Facilities”. The plan provisions include:

All childcare facilities are required to have regard to the provision of childcare facilities in appropriate locations as set out in accordance with the provisions of the DoEHLG ‘Childcare Facilities Guidelines for Planning Authorities’ (2001) and seek to apply Universal Design Guidelines for Early Learning and Care Settings (2019) from the National Disability Authority and Department of Children and Youth Affairs and Early Childhood Ireland.

Development of childcare facilities at the following locations subject to other planning criteria are generally acceptable ... Within new and existing residential developments (at an appropriate scale to serve the immediate area).

Planning applications for all childcare facilities shall be assessed for compliance with the following criteria:

- Suitability of the site for the type and size of facility proposed,

- Impact on residential amenity of surrounding residential development, noise, loss of residential amenity, traffic generation and general disturbance,
- Adequate availability of indoor and outdoor play space,
- Convenience to public transport nodes, pedestrian and cycling facilities,
- Local traffic conditions,
- Safe access and sufficient convenient off-street car parking and/or suitable drop-off and collection points for customers and staff, and
- Number of such facilities in the area. In this regard, the applicant shall submit a map showing the locations of childcare facilities within the vicinity of the subject site and demonstrate the need for an additional facility at that location.

7.2.3. I first note that this is an established facility and that considerations relating to the principle of a development of a childcare facility at this location have previously determined that this use is acceptable on this site. It may reasonably be understood that such considerations would likely have had due regard to the siting of the development on public land within a residential estate and the impact the proposed use would have on the residents of the estate. It is also notable that the planning authority, in accepting the proposed extension of the childcare facility, following the receipt of further information, has itself determined that the proposed development would not be contrary to the proper planning and sustainable development of the area and has not inferred in its decision or in the associated reporting that the proposed development would not be compliant with its Development Plan requirements as they relate to childcare facilities. In my opinion, the principle of a childcare facility on the site has been established.

### 7.3. Impacts arising from the Appellant's Proposed Development

7.3.1. I note that the appellant made a planning application to Kerry County Council for permission for a development in the immediate vicinity of the site of the proposed development - P.A. Ref. 22/533. That proposed development comprised 91 residential units. It was subject to appeal (Board Ref. - ABP-315615-23) and there was a submission from the applicant to the Board to include an option to provide a

childcare facility. The Board recently decided to refuse permission for that development for three reasons relating to excessive scale, density, and overdevelopment of the site, to a substandard form of development arising from poor quality public realm and private open spaces, and to the non-compliance of the proposed childcare facility with national policy on childcare facilities.

- 7.3.2. I acknowledge that the appellant submits to the Board that the current application fails to recognise that the proposed works to the public road as part of planning application 22/533 (ABP-315615-23) would reduce the length of the queuing zone to the Áiseanna na hÓige's set down area. It also makes reference to Áiseanna na hÓige's appeal against Planning Application 22/533 (ABP-315615-23) and to its request for the creation of a childcare hub, submitting that if the Board was to concede to this request the proposals the subject of this appeal would be premature. In light of the Board's decision under ABP-315615-23, it is reasonable to determine that the appellant's submissions on these matters are no longer applicable and do not merit further consideration.

#### 7.4. Traffic Impact

- 7.4.1. I first note the established arrangements relating to drop-off / pick-up, parking, and access to the established facility. I also observe that there is a bus service for this facility. I note for the Board that I undertook two site inspections, once on a late afternoon and once in the morning at the early part of the day for the service. I observed that the parking area to the front of the facility and the parking area to the rear were fully occupied, including occupancy by a bus. Some spaces were being utilised by parents/guardians in drop-off / pick-up but it was apparent that most were being used by others from the service. I observed the use of the turning area and drop-off / pick-up at that location adjoining the entrance to the facility. This was seen to be relatively efficient and functioning satisfactorily. While there was some on-street parking on the approach to the turning circle, this was limited and did not cause congestion on the road at the times of my inspections.

7.4.2. The applicant proposes as part of the new development to provide additional parking, to improve set down area provisions and to include other proposed traffic management provisions. The proposed physical infrastructure would include the following:

- Two additional disabled/mobility parking spaces in the set-down area;
- Four additional set-down parking spaces;
- Two additional perpendicular parking spaces;
- A two-metre-wide footpath adjacent to the set-down parking area;
- A quick drop-and-go facility at the end of the set-down area, with staff greeting the child and parents/guardians remaining in the car; and
- Additional cycle parking.

7.4.3. I acknowledge that these proposals have not raised any concerns with the Roads and Transportation Section of the planning authority. Furthermore, there is no reference to non-compliance with standards. The access arrangements and set down area are well established and appear to function reasonably well. In my opinion, the proposals should improve upon the established drop-off / pick-up arrangements.

7.4.4. Volume Six of the Kerry County Development Plan incorporates the development management standards and guidelines. Section 1.20 deals with parking standards. Table 4 illustrates the car parking standards for different types of development. The Plan notes that a flexible approach to the standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the planning authority, in the interest of proper planning and development, that the standard should be adjusted to facilitate the site-specific context. The provisions for childcare facilities are one space per four children and one space per staff member. Car parking provision is required to be provided for the disabled and mobility impaired in all car-parking developments and to be located in the most convenient locations for ease of uses. The standards to apply include 1 space within 5-25 spaces and 3 spaces within 25-50 spaces.

7.4.5. I note that the facility provides a wide range of services throughout the day, including part-time, sessional, Montessori / pre-school / creche, etc. There are varying numbers in the occupancy of the building throughout the day arising from this and the demand for access, parking, drop-off / pick-up varies also. The facility also provides a bus service which transports children to and from the building. It has also been observed that there are users of the service who walk to the facility. The applicant's survey results contained in Section 2.4 of its Traffic Management Plan are acknowledged.

7.4.6. I note that the Council has considered that the number of proposed parking spaces and the set down spaces associated with the development are adequate to accommodate the existing and proposed development, including the provision of disabled parking. I again acknowledge that the Development Plan allows for flexibility in approach where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the planning authority, in the interest of proper planning and development, that the standard should be adjusted to facilitate the site-specific context. There is no reason to determine that the approach to improve traffic provisions for this development would create a particular traffic hazard or that the intensification of use of the site would culminate in traffic concerns.

7.4.7. Adherence to the applicant's proposed traffic management plan will be important to the continued safe functioning of access arrangements for this facility, notably in relation to staggering arrival / departure times and mobility management.

#### 7.5. Impact on Residential Amenity

7.5.1. I again note that there is an existing childcare facility on the site. It is within an existing residential estate, adjoining public open space, and separated from the established housing in the vicinity by estate roads. It is reasonable to ascertain that the residents in the estate have an understanding of the effects of the functioning of the childcare facility in terms of noise, nuisance, disturbance, access, parking, and vehicular movements. I further note that there have been no concerns raised about



the potential impacts of the proposed extension by residents of the existing estate by way of submissions to the planning authority or to An Bord Pleanála.

7.5.2. The proposed development would not physically extend beyond the confines of the existing site and indeed would primarily fall within the footprint of the existing structure. It is acknowledged that the proposed extension would result in an intensification of use of the site, would increase the numbers of children accessing the facility, and would bring with it increased demands for parking and drop-off facilities. The functioning of the facility occurs greatly within the confines of the building, while continued utilisation of open space in the immediate vicinity would likely result. Provisions are being made for enhanced set down and for car parking.

7.5.3. It is my submission that the nature of the development is well established and that the proposed extension, while resulting in an intensification of activities on the site, can be accommodated at this location without significant adverse impact on residential amenity due to the containment of the principal activities within the confines of the building and the site and the improvements being made in terms of drop-off and collection arrangements.

#### 7.6. Compliance with Operating Standards

7.6.1. The appellant has submitted that the facility is operating in excess of the design loading and that adding to the loading on the building would exacerbate its inadequacies/constraints. It is contended that the proposal fails to meet with general operating standards for the existing and proposed development. Appendix E of the appeal submission refers to non-compliance with standards.

7.6.2. I first note that the planning authority referred the planning application to the Inspectorate Early Years Quality Directorate of the Child & Family Agency. I have no record of any report being submitted to the planning authority and there is no understanding that the Child & Family Agency has any particular concerns relating to compliance of the existing and proposed development with operating standards. I further acknowledge that the planning authority has not expressed concerns relating

to overdevelopment of the facility or to any failure to comply with standards arising from the proposed development.

7.6.3. I note the applicant's rebuttal of the appellant's submission which forms Appendix 2 of the response to the appeal. This includes the following:

- The floor area per child recommendations referred to by the appellant are inaccurate.
- The building has more rooms than the two creches and the pre-school. It has a library used for afterschool services in the afternoon and a multi-purpose room used for afterschool services also. There is a school bus service for these rooms. There is also a Montessori room which caters for pre-school children.
- The planning application is based on general purpose childcare rooms. The allocation and age groups of children has not yet been allocated. While no decision has been made about how the rooms will be utilised, there is a likelihood that some of these will be used for afterschool services. There is no sq. m requirement for school-age children. Collection is provided from the schools and home collection is staggered.
- As allocation has not been given to proposed rooms, the appellant's submission that 29 staff are required is incorrect. In the event, these are allocated to after-school services, the staffing ratio would be significantly lower. There are no catering or administration staff employed at the facility.
- The proposed staff requirements information presented by the appellant is inaccurate. In relation to the afterschool service for 50 children, the sessions do not start until 1.30pm.
- Not all of the 125 children attending the facility attend at one time. Some attend sessions only, some attend part-time / full-time, and some attend afterschool involving bus collection and cancelling out morning children attendance. All rooms are always within the TUSLA child/adult ratio and in accordance with floor area per child.
- The Council is in partnership with Áiseanna na hÓige to erect fencing adjoining the premises and this will allow for additional outdoor play area for the proposed building.

- 7.6.4. I note the “Áisenna na hÓige Table” at the end of Appendix 2 of the applicant’s response. The information includes details on the rooms, floor areas, occupancy by children per week, occupancy by children at any one-time, regulated capacity for each room, actual staff per room, and recommended staff numbers in accordance with service requirements. This indicates that the existing facility meets with capacity and staff requirements.
- 7.6.5. Further to noting that the details provided demonstrate that the existing facility is not operating above capacity, I acknowledge a number of other factors. These include that there are other rooms in the existing structure which are used for childcare purposes which the appellant has not referred to, that there is a public open space adjoining the premises which is available for use and is utilised by the facility, that sleeping facilities are provided for the creche uses, and that shuttle bus services are provided at times to the school. For clarity, on my site inspection it has been noted that the ‘Study’ is used as a Montessori room, the library is in use for afterschool services, the ‘Dining’ area is used as an Afterschool / Montessori room, and the creches and pre-school rooms are in use for these services.
- 7.6.6. I also note that the applicant’s response to the planning authority’s request for further information submitted that the proposed development would require an additional four staff members and that this would give a staff complement of 19 in total. Regarding children attending the facility, it was submitted that the full complement is 150 and that there would be an extra 25 children available to fill the school extension.
- 7.6.7. I acknowledge that the childcare facility provides a wide range of services throughout the day and that there are different ranges of services from part-time, sessional, Montessori / pre-school / creche, etc. Thus, there are varying numbers in the occupancy of the building throughout the day arising from the varying range of services.
- 7.6.8. I note that the existing facility is a well-established childcare premises and that the proposed extension seeks to accommodate anticipated increased demand for such services. I acknowledge *Childcare Facilities Guidelines for Planning Authorities*,

published by the Department of the Environment and Local Government in 2001. Appendix 1 of the Guidelines refers to 'General Standards' and refers to the Child Care (Pre-School Services) Regulations, 1996 when considering minimum floor space per child. I acknowledge the role of TUSLA in the oversight of such facilities, ensuring that minimum standards of services, floor area to child ratio, play areas and open space provisions, etc. are maintained. I note Tusla's Early Years Inspectorate Quality and Regulatory Framework document relating to full and part-time day care services. The applicant has also alluded to this in the response to the appeal. This document refers to minimum space requirements and the applicant's submission accurately reflects those minimum space requirements for premises and facilities. Compliance with operating standards would lie with TUSLA.

## 7.7. Building Design

- 7.7.1. The proposed development is sited within a residential estate where housing in the immediate vicinity comprises two-storey, semi-detached units to the rear, east and south-east. There is a large open field flanking the site to the south-west. The existing childcare facility is a single-storey, pitch roofed structure, comprising two blocks with a short flat roofed link, and it is gable-fronted on the main approach from the south-east. The proposed development would introduce a two-storey component which would provide for a lean-to roof and would introduce some composite cladding. There is no distinct architectural character to the existing building which merits a consistency in the design approach to new development. The location of the existing development, clearly separate from established residential properties and on lands falling away from the properties to the rear, allows for the small increase in height and minor variations in design character to be relatively easily absorbed into the estate setting. I have no particular concerns that the childcare facility design as proposed would result in incongruity or incompatibility with its setting in any material adverse manner.

## 7.8. The Question of Unauthorised Development

- 7.8.1. I note the array of issues raised by the appellant in relation to alleged unauthorised development on the site and to non-compliance with conditions of a previous planning permission. The planning authority evidently is the competent authority to determine such unauthorised development and non-compliance. I have no record of any action taken by the planning authority relating to such matters. Furthermore, I note the planning authority received the application for the proposed extension, considered the details provided to be adequate, and determined that the proposed extension is acceptable and that it would constitute proper planning and sustainable development. No reference was made in the reporting of the planning authority to unauthorised development on the site, non-compliance with conditions attached with a previous permission, or to the proposed development being premature pending any requirement to obtain retention permission for development that has been undertaken. I note from my inspection that the layout of the existing development is in accordance with the documentation submitted with the planning application for the extension.

## 7.9. The Existing Right of Way

- 7.9.1. The appellant has submitted that there is a right of way through the property to facilitate a watermain, that the planning submission has not demonstrated compliance with required separation distance from the pipe, and that the extension does not comply with Irish Water criteria. I note that the planning application was submitted to Uisce Éireann for comment and a report was received by the planning authority. No concerns were raised by Uisce Éireann relating to this right of way or any effects thereon by the proposed development.

### *Appropriate Assessment*

I have considered the proposed extension in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located in an established urban area within Dingle at significant distance from Mount Brandon Special Area of Conservation to the north and Dingle Peninsula Special Protection Area to the south.

The proposed development comprises an extension to a childcare facility within the confines of an established site.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The small scale and nature of the development, and
- The location and distance from the nearest European sites and lack of connections.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **8.0 Recommendation**

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations, and conditions.

## **9.0 Reasons and Considerations**

Having regard to the provisions of Kerry County Development Plan 2022-2028, the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027, and to the established nature of the childcare facility on the site, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of the area, would be acceptable in terms of

pedestrian and traffic safety, and would otherwise 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, as amended by the further plans and particulars submitted on the 13<sup>th</sup> day of October, 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 interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. Traffic management and improvement measures shall comply with the requirements of the planning authority.

**Reason:** In the interest of traffic safety.

4. Drainage arrangements shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

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.

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Kevin Moore  
Senior Planning Inspector

24<sup>th</sup> April, 2024