



An
Bord
Pleanála

Inspector's Addendum Report

ABP-321736-25A

Development	Construction of 4 residential units and all associated site works..
Location	Headford, Gortnamona, Co. Galway..
Planning Authority	Galway County Council.
Planning Authority Reg. Ref.	24/61437.
Applicant(s)	Sathel Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party v Grant of Planning Permission.
Appellant(s)	Sathel Ltd.
Observer(s)	None.
Date of Site Inspection	3 rd April 2025.
Inspector	Kathy Tuck

1.0 Introduction

- 1.1. This report should be read in conjunction with the original Inspector's Report in respect of ABP-321736-25 dated 16th April 2025. This report recommended that planning permission be granted for the proposed subject to 8 conditions.

2.0 Background

- 2.1. On 20th May 2025, the Commission issued a notice to the Applicant under Section 132 of the Planning and Development Act, 2000 (as amended) as they were of the opinion that certain information needed to be taken into account for the purposes of enabling it to determine the appeal. The Applicant was required to address the following on or before the 12th June 2025.

The site location is the subject of a parent planning permission, under planning reference number 07/818, 12/411, 17/1264 appeal reference number ABP-303680-19 (planning register reference number 20/518) and appeal reference number ABP-307793-20 (planning register reference number 20/518) the conditions of which specify that, apart from any departures specifically authorised, the development shall be carried out and completed in accordance with the terms of those permissions. The development includes a creche which, under the parent permission, remains to be completed on the subject site.

As this would constitute a new matter in the context of the appeal, the Board decided to defer consideration of the appeal and to issue a Section 137 notice to the parties inviting submissions from all parties, regarding the issue.

This report considers the documentation received from the Applicant.

3.0 Response to Board's Correspondence

3.1. First Party Response

- 3.1.1. The Applicant's agent submitted a formal response to the Board's request on 12th June 2025. This included a cover letter (dated 12th June 2025) prepared by the Applicant's planning consulting.
- 3.1.2. The letter stated that applications referred to in the letter received from the

Commission have all expired and as per Section 40(1)(b) of the Planning and Development Act 2000 (as amended) an expired permission ceases to have effect as regards so much of the development as is not completed within that period – given the creche was not constructed during the lifetime of the development the applicant does not have the benefit to deliver it now.

- 3.1.3. The response further states that the above circumstance requires the consideration as to whether the development as it exists today as being planning compliant. The response considers that the omission of the creche is servable from the permitted development and its omission does not materially undermine the extant permission.
- 3.1.4. The response considers further the requirement for a childcare facility and states that under Reg Ref 18/1615 the proposed dwelling numbers were reduced from 76 to 70 units. This brought the development under the threshold as set out within the Childcare Facilities Guidelines for Planning Authorities omitting the requirement for a facility.
- 3.1.5. The report concludes that based in the forgoing the subject planning application does not contravene the terms of any other planning permission. The subject application site is prosed on an infill/vacant site within a larger development which will provide for much needed housing in the area.
- 3.1.6. It is further asserted that the alternative to this interpretation is that the subject site would be sterilised in respect of any other type of development other than a childcare facility and that the applicant would be required to secure a new planning permission to provide for such. It is considered that it is common practice for permissions to supersede one another, and subsequent applications are required to be assessed by the Local Authority/An Coimisiun Pleanála on their own merits.

3.2. Planning Authority

A response has not been received from the Planning Authority.

4.0 Planning Policy

4.1. Childcare Facilities, Guidelines for Planning Authorities, 2001

- 4.1.1. The aim of these guidelines is to provide a framework to guide both local authorities in preparing development plans and assessing applications for planning permission, and developers and childcare providers in formulating development proposals. Planning permission for premises for childcare had been identified as an area of

concern for childcare service development. These Guidelines are intended to ensure a consistency of approach throughout the country to the treatment of applications for planning permission for childcare facilities.

- 4.1.2. Section 2.4 of the guidelines notes that planning authorities should require the provision of at least one childcare facility for new housing areas unless there are significant reasons to the contrary for example, development consisting of single bed apartments or where there are adequate childcare facilities in adjoining developments. For new housing areas, an average of one childcare facility for each 75 dwellings is considered to be appropriate. This is reiterated within section 3.3.1 and appendix 2 of these guidelines and is considered to be relevant in the instance of this report.

4.2. Galway County Development Plan 2022-2028

- 4.2.1. Section 11.8 of Chapter 11 of the County Plan relates to Childcare Facilities and state that provision of Childcare facilities is a key component of social infrastructure considered an integral requirement to economic and social wellbeing.

Policy Objective CF1 Childcare Facilities: Encourage and support the sustainable provision of childcare facilities in appropriate locations and seek their provision concurrent with development, having regard to the distribution of the residential populations and population targets for the area and in accordance with the Guidelines on Childcare Facilities: Guidelines for Planning Authorities (DoEHLG, 2001), the Childcare (PreSchool Services) Regulations 2006 and any other relevant statutory guidelines which may issue during the period of this Plan.

Policy Objective CF 3 Crèche Facilities: Require where appropriate the provision of crèche facilities in mixed use/residential developments in accordance with the ministerial guidelines for Planning Authorities on Childcare Facilities published in 2001. In general, childcare facilities outside of established settlements shall only be permitted adjacent to or in close proximity to existing educational or social facilities.

- 4.2.2. DM Standard 53 relates to community facilities and notes with regard to child care facilities that in assessing planning applications consideration shall be taken to ensure conformity with the requirements of appropriate legislative guidelines such as the Childcare Facilities.

5.0 Assessment

5.1. Introduction

- 5.1.1. Having reviewed the Commissions direction together with the response received from the applicant I consider that this application needs to be considered under two headings, firstly the requirement for a childcare facility at this location and secondly the nature and scope of the subject application and the legal implications of such.

5.2. Childcare and requirements for such.

- 5.2.1. As noted under section 4.1.2 of my report above, the Childcare guidelines for planning authorities, 2001, requires that an average of one childcare facility for each 75 dwellings permitted be provided. The planning history pertaining to the subject site, as set out within section 4.0 of my original report, indicated that the original development which sought permission under PA Ref 07/518 provided for 82 no. residential dwellings. This permission was amended on a number of times under a number of sub-sequent amendment applications.
- 5.2.2. The final amendment application granted permission under ABP-303680-25 (PA Reg Ref 18/1615), reduced the permitted number of dwellings by 6 units to provide for a total of 70 dwellings units. The applicant in their response to the Commissions Section 137 directive, have therefore set out that a crèche is no longer required to serve the parent development. The proposed development comprising 4 no. dwelling units would not give rise to a development in excess of the threshold as set out within the guidelines.
- 5.2.3. In line with the requirements of the Childcare guidelines for planning authorities, 2001 and having regard to the permission granted under ABP-303680-25 I would agree with the argument set out by the appellant that a creche would not be required to serve the parent permission.

5.3. Nature and Scope of application – Legal implication.

- 5.3.1. As set out above, the parent permission, granted under ABP-303680-25 (PA Reg Ref 18/1615), sought to reduce the number of dwellings previously permitted on the subject site by omitting 6 units. The site layout plan submitted with that application included the site subject to this appeal where it was indicated that a creche was to be provided. Condition no. 1 of the grant of permission issued by An Bord Pleanála on the 14th June 2019 required that the development be carried out and completed in

accordance with the plans and particulars lodged with the application. The creche building was never constructed.

- 5.3.2. The statutory notices associated with this current application/appeal stated *'permission sought to construct 4 no. residential units consisting of 2 no. semi-detached bungalows and associated site works'*.
- 5.3.3. The extant development appears not to be in compliance with the terms and conditions associated with ABP-303680-25 (PA Reg Ref 18/1615) as they have failed to provide the creche. Notwithstanding Section 40(1)(b) of the Planning and Development Act 2000 (as amended), while the parent permission pertaining to the appeal site may have expired, there remains a legal onus on the developer to be in compliance with all conditions of the parent permission.
- 5.3.4. The scope of the development as described within the statutory notices associated with the subject applicant failed to amend or regularise the parent permission granted on the subject site which in turn potentially may result in compliance issues for property owners of the development as constructed.
- 5.3.5. In light of the forgoing, I am now of the opinion that to grant permission for the development subject to this appeal may constitute a contravention of a previous grant of planning permission pertaining to the subject site and as such permission should therefore be refused on that basis.
- 5.3.6. Notwithstanding the above, the Commission may consider seeking the applicant to submit revised statutory notices to properly describe the nature and scope of the development and to regularise issues of non-compliance with the development as permitted under ABP-303680-25 (PA Reg Ref 18/1615).

6.0 Recommendation

- 6.1. I refer to the previous Inspector's Report and recommendation on this application dated 16th April 2025 to grant planning permission. I consider, having regard to the new matter raised by the Commission and the response submitted by the 1st Party appellant the conclusion reached in that of my initial report be amended and I now recommend that permission be refused as follows:

1. Having regard to the development previously permitted on the subject site

under ABP-303680-25 (PA Reg Ref 18/1615) and the requirements of condition no. 1 of such, it is considered to permit the proposed development on part of a site which was designated to provide for a crèche facility which was not constructed would contravene a condition of permission relating to the now expired permission and would therefore not be in keeping with the proper planning and sustainable development of the area.

- 6.2.** 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.

Kathy Tuck

Planning Inspector

27th August 2025