

Comhairle Chontae Atha Cliath Theas

PR/1481/21

Record of Executive Business and Chief Executive's Order

Register Reference: ED21/0068
Correspondence Name & Address: Therese Monks 5 Willington Court, Templeogue, Dublin 6W.
Development: Change of use of rooms; increase number of children catered for. Increase is approved by Tulsa.
Location: 64 Laurel Park, Clondalkin, Dublin 22.
Applicant: Therese Monks

(CD)

Description of Site and Surroundings

Site Description

The site is located at No. 64 Laurel Park, Clondalkin. It contains a two-storey semi-detached house currently in approved use as a crèche/Montessori. The property adjoins a two-storey semi-detached dwelling. Monastery Road runs immediately to the north of the site and a filling station is located immediately to the east of the site.

Site Area

0.0302 Ha

Proposal

This is an application requesting a Section 5 Declaration to determine whether the following is considered Exempted Development:

- The change of use of existing rooms within No. 64 Laurel Park
- No new floor area is proposed.
- The proposed development will facilitate the increase in the number of children attending the creche/Montessori.

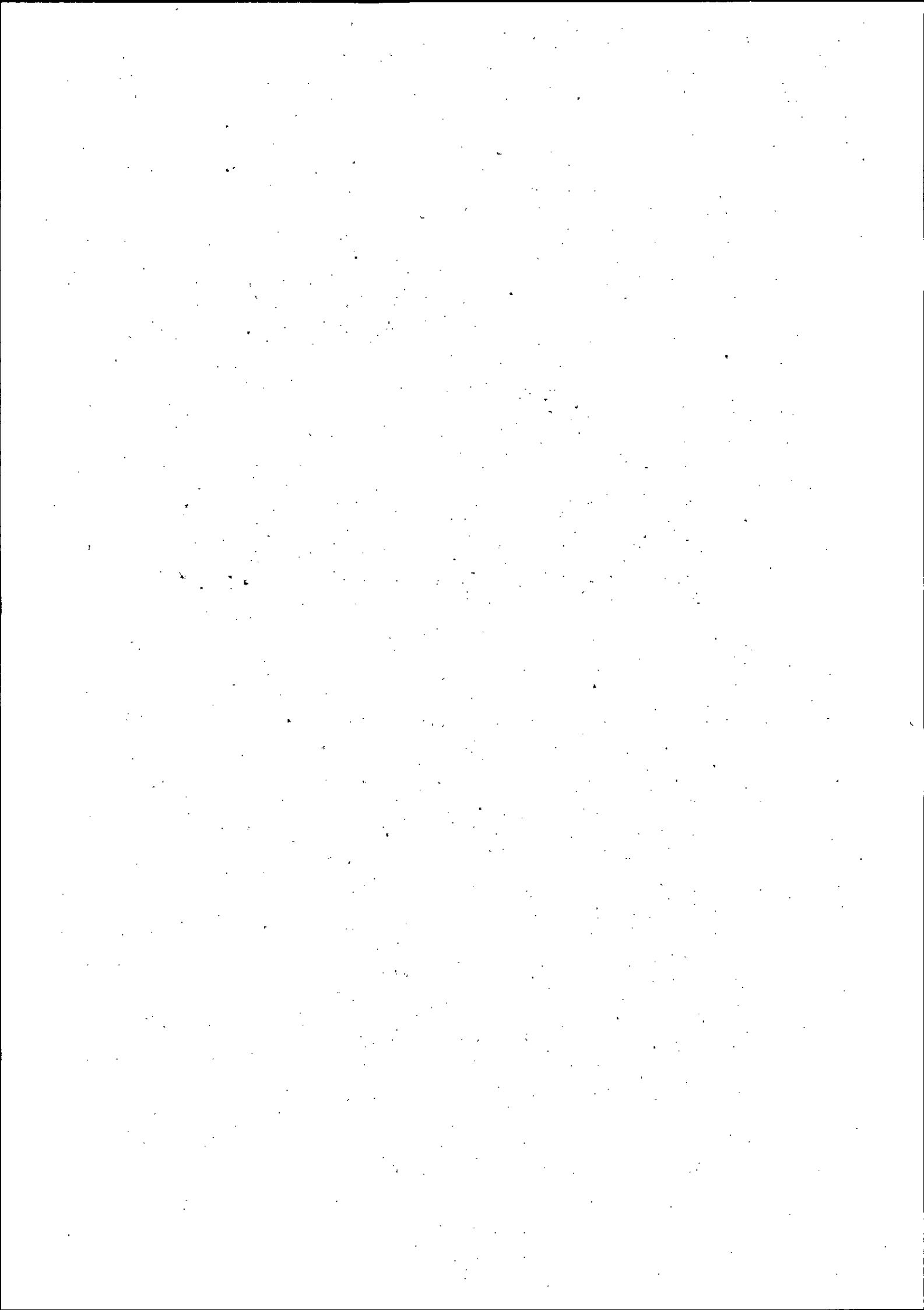
The Section 5 Declaration application includes:

- Application form
- Applicant Cover Letter
- Architects Opinion on Compliance with Planning Permission dated 16th October 2008
- TUSLA Certificate of Registration
- Fire Safety Certificate
- Site Location Map
- Site Layout Plan
- Floor Plans

Recent Relevant Planning History

Subject Site

SD10A/0085 – No. 64 Laurel Park, Clondalkin, Dublin 22



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(1) Retention of a two storey extension to the rear of the existing Crèche/Montessori as constructed; (2) retention of existing front and rear elevations as constructed to include increased height of building, new front porch, change in size of front windows, all windows at rear, all roof windows at side and rear as constructed, changes to internal layout of ground floor and first floor as constructed, chimneys relocated and additional chimney and new to new boundary wall as constructed; (3) retention of attic conversion to sessional play area and kitchenette as constructed and all associated site works. (It is noted that this application will not result in an increase in the number of children at the Crèche/Montessori). **Grant Permission for Retention, subject to conditions.**

Condition No. 3 attached to SD10A/0085 is relevant:

'The number of children in the childcare facility shall be limited to the numbers which can be accommodated in accordance with the following floor space requirements and as detailed in the Childcare Facilities Guidelines, Department of Environment, Heritage and Local Government, 2001:

a) Sessional Services (Maximum 3.5hrs): 0-6 years shall have 2 sq m per child (Maximum of 20 per room)

b) Full and Part-Time Day Care:

0-1 Year: 3.50sq metres per child

1-2 Years: 2.80sq metres per child

2-3 Years: 2.35sq metres per child

3-6 Years: 2.3sq metres per child

The number of children cared for at this facility in compliance with the above requirements shall not be increased without a prior grant of planning permission from the Planning Authority or An Bord Pleanála on appeal.

Reason: In the interests of public health and to ensure adequate childcare provision'

SD05A/0054 – No. 64 Laurel Park, Clondalkin, Dublin 22

Demolish existing single storey extension to side, erect new extension to side and rear of existing creche/Montessori; two storey extension to front and three storey to rear comprising day care centre, W.C's and office; second storey store extension to rear to include fire escape balcony and stairs; also attic conversion, extension to existing creche, Montessori for after school care, alterations to existing internal layout to creche, Montessori and all associated site works. **Grant Permission, subject to conditions.**

S01A/0221 – No. 64 Laurel Park, Clondalkin, Dublin 22

Change of Use from Domestic to creche. **Grant Permission, subject to conditions.**

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Recent Relevant Enforcement History

S4469 – No. 64 Laurel Park, Clondalkin, Dublin 22

Alleged non-compliance with conditions attached to SD01A/0221. **File closed as complies with permission granted.**

S4618 – No. 64 Laurel Park, Clondalkin, Dublin 22

Alleged destruction of boundary wall. **File closed as complies with permission granted.**

S1776 – No. 64 Laurel Park, Clondalkin, Dublin 22

Alleged development taking place without planning permission. **File closed.**

Zoning and Council Policies

The site is zoned 'RES' where the stated objective is 'to protect and/or improve residential amenity' in the South Dublin County Development Plan 2016-2022.

Assessment

Consideration as to whether a development constitutes exempted development or not is governed by Sections 3, 4 and 5 of the Planning and Development Act 2000 (as amended) and Article 10 and Parts 1 and 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Section 2(1) and 3(1) of the Planning and Development Act 2000 as amended are relevant:

Section 2(1) defines 'works' as:

'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'

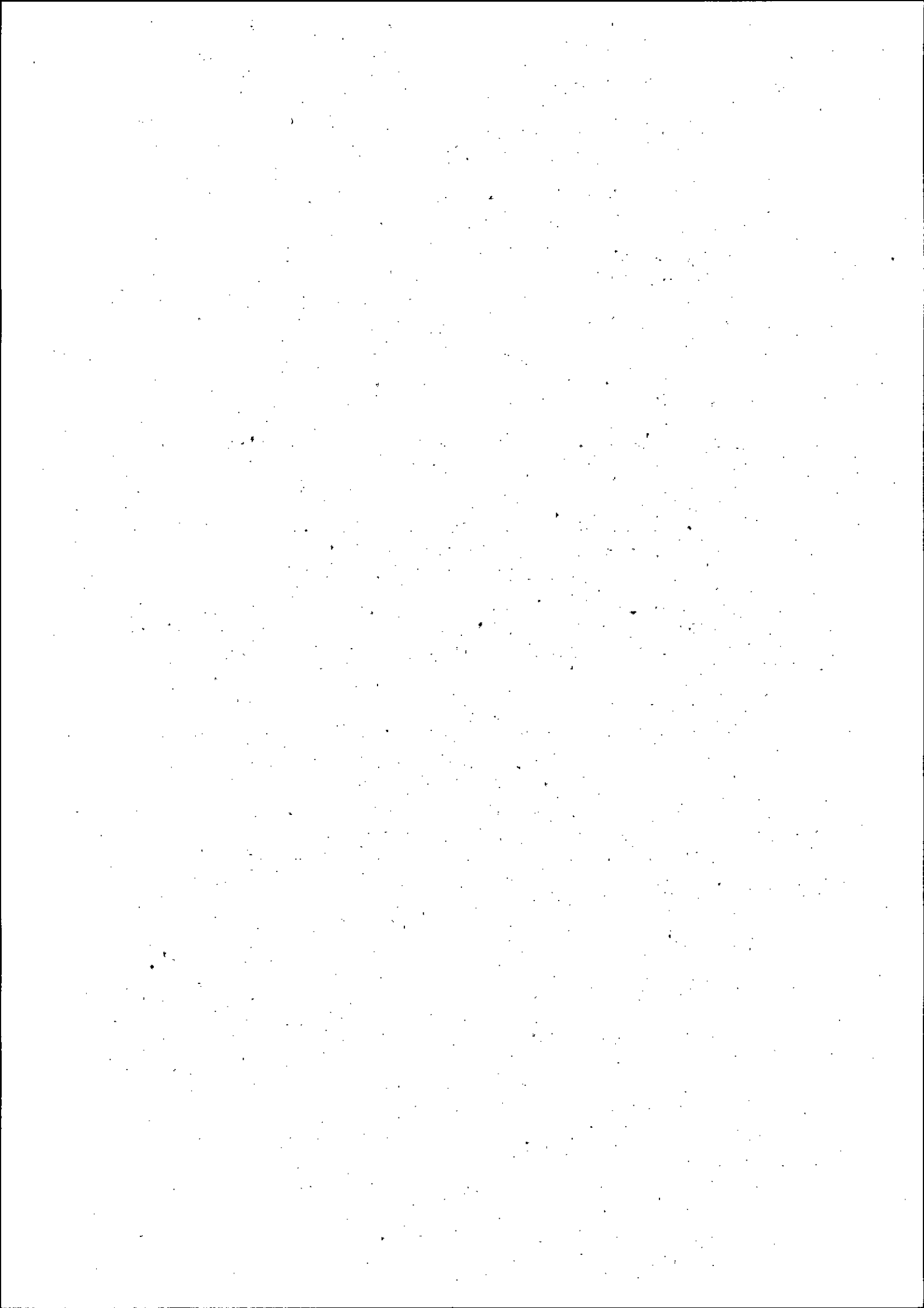
Section 2(1) defines a 'structure' as:

'any building, structure, excavation or other thing constructed or made on, in or under any land, or part of a structure so defined, and –

(a) Where the context so admits, includes the land on, in or under which the structure is situate'.

Section 2(1) defines a 'use' as:

'use' in relation to land, does include the use of the land by the carrying out of works thereon.



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Section 3(1) defines 'development' as:

'the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land'.

The Proposal can be broken down into two elements:

- The change of use of existing rooms within No. 64 Laurel Park
- The proposed development will facilitate the increase in the number of children attending the creche/Montessori.

Change of Use of existing rooms

Although it is not clear from the documentation provided by the Applicant what the previous use of the rooms in question was, it is noted that Retention Planning Permission was granted for the retention of development on the site under SD10A/0085. The drawings submitted with this retention planning application indicated that all rooms, including the attic space, would be used for creche/Montessori use. Retention Permission has therefore been granted for the entire property to be used for a creche/Montessori. As such, the application would not represent a material change of use and is therefore deemed not to be development.

The increase in the number of children attending the creche/Montessori.

The proposed increase in children attending the premises would be considered to be a material change and would therefore be considered to be development. However, Condition 3, attached to the 2010 permission, limits the 'number of children in the childcare facility' to the number of children 'which can be accommodated in accordance with... [specified] space requirements and as detailed in the Childcare Facilities Guidelines, Department of Environment, Heritage and Local Government, 2001.' The applicant outlines the total number of children attending the creche / Montessori is 76 children. Based on the requirements of Condition 2 and the information contained in the Applicant's Cover Letter, (76 children would be attendance), the following calculation has been made:

- 0 – 1 Year – 14 children x 3.5sq.m = 35sq.m
- 2-3 Years – 22 children x 2.35sq.m = 51.7sq.m
- 3 – 4 Years – 44 children x 2.3sq.m = 101.2sq.m

The gross floor area required for 76 children would total 155.9sq.m. According to the drawing provided by the applicant, the Gross Floor Area of the creche/Montessori would be approximately 293.21sq m. It is therefore acknowledged that the gross floor area of the creche/Montessori (including the additional rooms proposed) exceeds the floor space requirements outlined in Condition No. 3 attached to SD10A/0085.

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The proposal to increase the number of children on the site to 76, although a material change, would be consistent with Condition 3 of Planning Permission granted under Reg. Ref. SD10A/0085 and is therefore permitted development.

Environmental Impact Assessment and Screening for Appropriate Assessment

Section 4(4) of the Planning and Development Act 2000 (as amended), de-exempts development that would require an Environmental Impact Assessment or Appropriate Assessment. Having regard to the nature and scale of the development, existing connection to public services, and distance from sensitive receptors and Natura 2000 sites, it is not considered that there is a requirement for an Environmental Impact Assessment nor a Stage 2 Appropriate Assessment.

Conclusion

Taking into account the planning history of the site, including the assessment of SD10A/0085 and the conditions attached it is deemed that:

- (1) The proposed change of use does not represent a material change of use and is therefore not deemed to be development.
- (2) The proposal to increase the number of children on the site to 76 would represent a material change of use. However, the rise in numbers is consistent with Condition 3 of Planning Permission granted under Reg. Ref. SD10A/0085. The proposed increase in children is deemed to be development and is deemed to be permitted development.

Recommendation

The applicant should be written to and informed that:

Taking into account the planning history of the site, including the assessment of SD10A/0085 and the conditions attached to this permission it is deemed that:

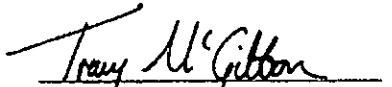
- (1) The proposed change of use does not represent a material change of use and is therefore not deemed to be development.
- (2) The proposal to increase the number of children on the site to 76 would represent a material change of use. However, the rise in numbers is consistent with Condition 3 of Planning Permission granted under Reg. Ref. SD10A/0085. The proposed increase in children attending the site is deemed to be development and is deemed to be permitted development.

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Tracy McGibbon,
A/Senior Executive Planner

ORDER: That the applicant be informed that, taking into account the planning history of the site, including the assessment of SD10A/0085 and the conditions attached to this permission it is deemed that:

- (1) The proposed change of use does not represent a material change of use and is therefore not deemed to be development.
- (2) The proposal to increase the number of children on the site to 76 would represent a material change of use. However, the rise in numbers is consistent with Condition 3 of Planning Permission granted under Reg. Ref. SD10A/0085. The proposed increase in children attending the site is deemed to be development and is deemed to be permitted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) and therefore does not require planning permission.

Date: 16/11/21


Eoin Burke, Senior Planner

