

PR/1649/21

Record of Executive Business and Chief Executive's Order

Register Reference: ED21/0075
Correspondence Name & Address: Muire Gibson 29, The Grove, Liffey Hall,
Newbridge, Co. Kildare
Development: Montessori Pre School Sessional Service
(3 Hours) (9.30am - 12.30pm)
Location: St.Paul's Secondary School, Limekiln
Lane, Greenhills, Dublin 12
Applicant: Blossom Montessori School

(COS)

Description of Site and Surroundings

The subject site is located at St. Paul's Secondary School on Limekiln Lane in Greenhills.

Proposal

This is an application requesting a Section 5 Declaration on whether '*Montessori Pre School Sessional Service (3 Hours) (9.30am - 12.30pm)*' at St. Paul's Secondary School is or is not development and is or is it not exempted development.

The Section 5 Declaration application includes:

- Application form
- Documentation on previous applications for the site dated from 1965 and 1989. These applications include a temporary school for girls and the reinstatement of fire damaged assembly and community hall.
- A not to scale drawing of what appears to be changing rooms.

Recent Relevant Planning History

SD11A/0305

Removal of 5 existing tarmacadam sports courts and associated footpaths and the construction of 3 all weather sports courts with associated perimeter fencing and floodlighting; the construction of a drained natural grass sports field and all associated access pathways, drainage, hard and soft landscaping. **Permission granted.**

SD08A/0069

Widening of the existing entrance and re-alignment of footpath to the school and convent, located at Limekiln Lane, Greenhills, Dublin 12. The new entrance will incorporate a separate entrance for the school and the convent, with associated carriageway, verge, footpath, gates and pillars. The work will also involve the construction of a new low boundary wall and railings to separate the grounds of the convent from that of the school and new matching railings along a revised boundary between the school and the church. The demolition of an 87sq.m. single storey out-building and the provision of a new driveway and car-parking area, with 72 parking

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spaces. for the use of the secondary school and all associated ground works, lighting and landscaping. **Permission granted.**

Relevant Enforcement History

Enforcement Ref. S5653

Rear entrance to St. Paul's Girls Secondary School, Temple Manor Estate, Dublin 12.

Case closed – Statute barred.

Enforcement Ref. 9183

Non compliance with lodged plans and further complaint regarding access. **Case closed – Pre APAS.**

Enforcement Ref. S0604

Gates at entrance to St. Paul's School. **Case closed – Pre APAS.**

Zoning and Council Policies

The subject site is subject to zoning objective 'RES': *'To protect and/or improve residential amenity'* under the South Dublin County Council Development Plan 2016-2022.

Protected Structure RPS No. 183 Church of the Holy Spirit – Detached Gable Fronted Trapezoidal Plan Church is located to the north-east of the school.

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 Part 2 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Planning and Development Act 2000 as amended (emphasis added):

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'*.

Section 2(1) in this Act, except where otherwise requires –

'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

'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 situated.

'use' in relation to land, does not include the use of the land by the carrying out of any works thereon.

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It is considered that the change of use of part of a secondary school to a Montessori Pre-School is a change of 'use' and is also represents a material change of use, having specific regard Article 10 of the Planning and Development Regulations 2001 (as amended) 'school' has the meaning assigned to it by the Education Act 1998. Under the Education Act 1998 'school' is defined as (emphasis added):

"an establishment which—

- (a) provides primary education to its students and which may also provide early childhood education, or*
- (b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training, but does not include a school or institution established in accordance with the Children Acts, 1908 to 1989, or a school or institution established or maintained by the Health Service Executive in accordance with the Health Acts, 1947 to 1996, or the Child and Family Agency in accordance with the Child Care Act 1991".*

The proposal involves the provision of a Montessori pre-school within an existing post-primary school. This is not provided for in the above definition and is therefore represents a material change of use.

It is not clear from the submitted documentation whether there would be any works as part of the proposal. Regardless, the proposal is identified as a material change of use and is therefore development.

Is the proposal exempted development?

Schedule 2 Part 1 'Exempted Development General' Class 14 sets out change of use. Development which consists of the change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development is subject to specific criteria. In this instance the change of use from secondary school to a Montessori Pre-School is not included within the exemptions.

While a Montessori Pre-School is considered to fit under Class 8 ((b) as a crèche and (c) as a day nursery) of Part 4 of Schedule 2, a post-primary or secondary school is not provided for under any of the use classes in this schedule. It is also noted that the school in this case is not considered to be a 'residential school' as provided for under Class 9.

Section 4 of the Planning and Development Act relates to exemptions in development. Section 4(1)(h) of the Act provides for **works** which affect only the interior of the structure. Section 4(1)(h) only relates to 'works'. The proposed development cannot be considered to come under Section 4(1)(h) of the Act as the proposed development relates to use. Use as defined by the Act does not include the use of the land by the carrying out of works thereon. Therefore, the proposed development cannot be deemed exempt under Section 4(1)(h) of the Act.

Comhairle Chontae Átha Cliath Theas

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Therefore, it is considered that the proposal is not exempted development.

Conclusion

The proposal the subject of this section 5 declaration is 'Montessori Pre School Sessional Service (3 Hours) (9.30am - 12.30pm)' at St. Paul's Secondary School.

It is considered that:

- (a) it constitutes development, and
- (b) it is not exempted development.

Recommendation

The applicant should be written to and informed that the proposed development would not be considered as exempted development and would require planning permission.


Sim Johnston,
Senior Executive Planner

ORDER: That the applicant be informed that the proposed development of Montessori Pre School Sessional Service (3 Hours) (9.30am - 12.30pm) at St. Paul's Secondary School, Limekiln Lane, Greenhills, Dublin 12 is development and is not considered to be exempted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) and therefore **does require** planning permission.

Date:

20/12/21


Eoin Burke, Senior Planner