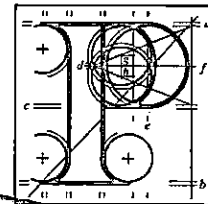


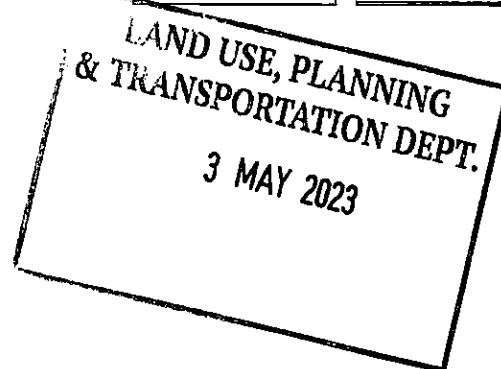
**Our Case Number:** ABP-316581-23

**Planning Authority Reference Number:** SD22A/0410



**An  
Bord  
Pleanála**

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24



**Date:** 02 May 2023

**Re:** Retention of construction of canopy structure to the west of the main school building.  
Lucan East Educate Together N.S, Kishogue Cross, Lucan, Co Dublin

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, within a period of 2 weeks beginning on the date of this letter, the following documents:-

- (i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,
- (ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,
- (iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,
- (iv) a copy of the notification of decision given to the applicant,
- (v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,
- (vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure.

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaao Áitiúil</b>	<b>LoCall</b>	1800 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	www.pleanala.ie
<b>Ríomhphost</b>	<b>Email</b>	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

(vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,

(viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,

(ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,

(x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,

(xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:-

Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

a) Certified Manager's Order,

b) the site location, site layout maps, all plans and

c) particulars and all internal reports.

Copies of I-plan sheets are not adequate.

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a period of 4 weeks beginning on the date of this letter.

Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

#### Contingency Submission

5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. In particular, your authority may wish to comment on appropriate conditions which might be attached to a permission in accordance with section 48 and/or 49 of the 2000 Planning Act, (as amended), (Development / Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act.

Tel	Tel	(01) 858 8100
Glao Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

Matthew Fagan

Retentionpermission.ie

229 Clonliffe Road,

Drumcondra,

Dublin 3.

<b>AN BORD PLEANÁLA</b>	
LDG- <u>062822-23</u>	
ABP- _____	
<b>27 APR 2023</b>	
Fee: € <u>4,500</u>	Type: <u>CARO.</u>
Time: <u>Spm</u>	By: <u>HAND</u>

The Secretary,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1.

April 26th, 2023

**Address:** Lucan East Educate Together National School, Kishogue Cross, Griffeen Avenue, Kishogue, Lucan, Co. Dublin

**Re:** The development requiring retention permission consists of the construction of a canopy structure to the west of the main school building.

**Applicant:** The Minister of Education

**Reg Ref:** SD22A/0410

**Decision Order Number:** 0336

**Date of Decision:** 31/03/2023

**Address of Appellant:** Minister of Education, Leinster House, Kildare Street, Dublin 2  
c/o Lucan East Educate Together National School, Kishogue Cross, Griffeen Avenue, Kishogue, Lucan, Co. Dublin

**Appeal Fee:** See Appeal Fee paragraph below.

Dear Sir/Madam,

On behalf of my client, the Minister of Education, I wish to appeal the decision of South County Council to Refuse Permission for Retention of the construction of a canopy structure to the west of the main school building.

The council have stated the following reason for refusal:

*"1. It is considered that the development for which retention would be sought, by reason of its height, scale and proximity to the adjoining residential properties, would result in an overbearing impact that would adversely affect the immediate residential amenity and therefore would be contrary to Section 12.8.5 Education Facilities of the SDCC County Development Plan 2022-2028 and section 2.8.6. Building Heights and Street Widths of the Clonburris Strategic Development Zone Planning Scheme, May 2019 and be contrary to the proper planning and sustainable development of the area."*

I set out the basis of our appeal as follows:

#### Mitigation Measures

South Dublin County Council issued a Clarification of Additional Information on February 15<sup>th</sup>, 2023; in this request the Council stated that the canopy structure is considered, in their opinion, overly high and has an industrial-type appearance. They then offered us the opportunity to propose visual mitigation measures including: "(i) removing the covering/cladding from the frame of the building and covering it with netting to act as a ballstop or (ii) preparing details landscaping proposals for a green wall of climbing plants over the exterior of the structure facing the dwellings to soften the appearance

~~of the structure or (iii) alternative revisions for screening the development from the dwellings to bring it in line with Section 2.8.6 Building Heights and Street Widths of the Clonburris Strategic Development Zone Planning Scheme (May 2019) and Section 12.8.5 'Education Facilities' of the South Dublin County Council Development Plan 2022-2028 and more generally the proper planning and sustainable development of the area."~~

We noted that SDCC considered screening planting as acceptable in principle and responded with item (iii) alternative revisions for screening the development from the dwellings:

- There are 8 existing trees in the planting strip alongside the boundary which are yet to reach full height which offer visual mitigation.
- It was proposed to plant additional screening planting up to 4m in height which will provide additional screening.

In addition to these previously proposed measures we, as part of this appeal, wish to propose these additional mitigation measures:

- We propose lowering the height of the entire structure by 300mm.
- We propose planting a green wall of climbing plants over the exterior of the structure facing the dwellings; see drawings 22035-PL(ABP)-2.013, 22035-PL(ABP)-3.02 and 22035-PL(ABP)-3.03 included.

Through the introduction of these 4 measures of mitigation we are of the opinion that the canopy structure won't be visually obtrusive and thus be considered acceptable development.

#### **Importance of retaining the canopy structure.**

In addition to the proposed mitigation measures we wish to state the importance of the structure to the amenity of the school with the following statement prepared by Lucan East Together National School:

*"The canopy structure has been a wonderful asset to the school in terms of the availability of a dry secure outdoor space. While it was an essential part of the school during the height of the Covid pandemic it has continued to be a vital part of our infrastructure post-Covid too. The canopy provides a dry, safe area for children who arrive on the school grounds on particularly wet mornings. Similarly, it is continuously used by classes for physical education and wellbeing during adverse weather conditions.*

*The beauty of having access to this area means that some of our traditional indoor activities now have the option of moving outdoors, when possible, too. During our most recent graduation ceremony we hosted the event on this outdoor space underneath the canopy. The close proximity to the school building meant that we were in a position to connect a mobile display for the ceremony without the fear of any damage to the equipment or need to move inside if the weather changed.*

*Removing the structure would certainly have a negative impact on the children's wellbeing in terms of mental and physical health due to the fact that classes can always get out for a yard break in the covered area, irrespective of the weather conditions. This is also evident in the amount of use that the covered area gets when providing movement breaks for children with additional needs. We hope that you would look favourably on our application for the reasons above".*

*Simon Moloney, representing the principal of Lucan East Educate Together N.S.*

The Parents' Association in Lucan East Educate Together National School has also contributed the following:

*"The construction of the cover over the astro pitch has provided an excellent opportunity for the children and the entire school community to engage in activities that would otherwise have been hindered by limited space or unfavorable weather conditions. The pitch has been utilized for various school events, including graduation, breakfast mornings, Seachtain na Gaeilge, visits from other schools, and extra training sessions for visiting sports clubs.*

*For children with special needs, the covered pitch has become a crucial space where they can take movement breaks regardless of the weather. The resource has proven to be exceptional in numerous ways, offering a safe and dry environment for children to seek shelter before school while providing an outdoor space that can be accessed all year round.*

*The covered pitch has also extended the learning environment of the school, serving as a vital addition to our school community. Its versatility and flexibility make it a significant asset that has enhanced the overall quality of life in the school".*

*Colette Darcy (Chairperson of the Parents' Association in Lucan East Educate Together National School)*

### **Community Response**

We note that no objections or submissions were lodged to South Dublin County Council during the observation stage of the original planning application; this can be interpreted as acknowledgement from the surrounding community of the importance that this facility provides for the students.

### **Appeal Fee**

- Section A12 of An Bord Pleanála's Appeals Fees states that organisations on the list of reduced fee appeal fees should pay €110: *(d) A State authority, for example a minister of the Government.*

As this appeal is being made in the name of a government minister, I believe the correct fee should be €110.

However, Section A5 of An Bord Pleanála's Appeals Fees states that:

*"You want to appeal the decision of a planning authority on an application you lodged with it.  
The appeal does include retention;  
The appeal does not relate to commercial development; and  
The appeal or application does not include an EIAR or NIS."*

The appeal fee is €660.

As the canopy structure is for a public school the appeal does not relate to commercial development.

Section A7 States that

*The appeal does include retention;  
The appeal does relate to commercial development; and  
The appeal or application does not include an EIAR or NIS.*

This appeal fee is €4500.

I have contacted An Bord Pleanála in person and via email for clarification on the correct fee and received differing responses; in view of this I have included an appeal fee of €4500. However, as the appeal is on behalf of a government minister and there is no commercial development related to the appeal, I believe the correct fee should be the lower amount. We request a refund of the balance if the Bord concurs.

## Conclusion

---

We have proposed significant mitigation measures as part of both our response to Clarification of Further Information and this appeal and stated the importance of retaining the structure as an amenity for the school and students who use it. For these reasons I request that An Bord Pleanála overturn South Dublin County Council's decision to refuse permission for the development and grant retention permission.

Yours sincerely,

*Matthew Fagan,*

**Matthew Fagan,  
B Arch, MRIAI**

Matthew Fagan  
229, Clonliffe Road  
Drumcondra  
Dublin 3

**NOTIFICATION OF DECISION TO REFUSE PERMISSION FOR RETENTION  
PLANNING & DEVELOPMENT ACT 2000 (as amended) AND  
PLANNING REGULATIONS THEREUNDER**

<b>Decision Order No.</b>	0336	<b>Date of Decision</b>	31-Mar-2023
<b>Register Reference</b>	SD22A/0410	<b>Date</b>	08-Mar-2023

**Applicant:** The Minister of Education

**Development:** Retention of construction of canopy structure to the west of the main school building.

**Location:** Lucan East Educate Together N.S, Kishogue Cross, Lucan, Co Dublin

**Time extension(s) up to and including:**

**Additional Information Requested/Received:** 15-Dec-2022, /19-Jan-2023,

**Clarification of Additional Information Requested/Received:** 15-Feb-2023/08-Mar-2023

**DECISION:** Pursuant to the Planning and Development Act 2000 (as amended), dated as above a decision to **REFUSE PERMISSION FOR RETENTION** is hereby made for the said development for the reason(s) set out on the Schedule hereto.

**REASON(S)**

1. It is considered that the development for which retention would be sought, by reason of its height, scale and proximity to the adjoining residential properties, would result in an overbearing impact that would adversely affect the immediate residential amenity and therefore would be contrary to Section 12.8.5 Education Facilities of the SDCC County Development Plan 2022-2028 and section 2.8.6. Building Heights and Street Widths of the Clonburris Strategic Development Zone Planning Scheme, May 2019 and be contrary to the proper planning and sustainable development of the area.

<b>AN BORD PLEANÁLA</b>	
27 APR 2023	
LTR DATED _____	FROM <i>Appellant</i>
LDG- _____	
ABP- <u>316581-23</u>	

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001 (as amended). Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001 (as amended), have been considered in the determination of this application.

**Register Reference: SD22A/0410**

Signed on behalf of the South Dublin County Council.

Yours faithfully,

*Pamela Hughes* 31-Mar-2023  
for Senior Planner



---

## NOTES

### (A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications related to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of two months beginning on the date of the Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

### (A) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála. The applicant or ANY OTHER PERSON who made submissions or observations to the Local Authority may appeal within FOUR WEEKS beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received).
1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. In the case of a third party appeal it must be accompanied by the acknowledgement by the Planning Authority of receipt of the submissions/observations. Appeals should be sent to:
  2. The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1.
  3. An Appeal lodged by an applicant/ agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below.
  4. A party to an appeal making a request to An Bord Pleanála for an Oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (g) below).
  5. A person who is not a party to an appeal must pay a fee to An Bord Pleanála when making submissions or observations to An Bord Pleanála in relation to an appeal.
  6. If the Council makes a decision to grant permission/grant permission consequent on a grant of outline permission and there is no appeal to An Bord Pleanála against this decision, PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION will be granted by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If any appeal made in accordance with the Acts has been withdrawn, the Council will grant the PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION/RETENTION as soon as may be after the withdrawal.
  7. Fees payable to An Bord Pleanála from 10th December 2007 are as follows:
    - (a) Appeal against a decision of a Planning Authority on a planning application relating to commercial development made by the person by whom the planning application was made, where the application relates to unauthorised development .....€4,500.00 or €9,000 if an E.I.A.R. is involved
    - (b) Appeal against a decision of a planning authority on a planning application relating to commercial development made by the person by whom the planning application was made, other than an appeal mentioned at (a)..... €1,500.00 or €3,000.00 if an E.I.A.R. is involved
    - (c) Appeal made by the person by whom the planning application was made, where the application relates to unauthorised development other than an appeal mentioned at (a) or (b) .....€660.00
    - (d) Appeal other than an appeal mentioned at (a), (b), (c) or (f) .....€220.00
    - (e) Application for leave to appeal.....€110.00
    - (f) Appeal following a grant of leave to appeal .....€110.00
    - (g) Referral .....€220.00
    - (h) Reduced fee (payable by specified bodies).....€110.00
    - (i) Submission or observations (by observer).....€50.00
    - (j) Request from a party for an Oral Hearing .....€50.00

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at

Telephone 01-858 8100

---