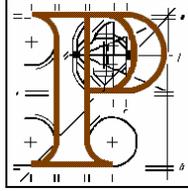


An Bord Pleanála



Inspector's Report

Development: Modifications to permission 11/21 including change of use to retail pharmacy for part of ground floor, entrance ramps and steps with rail and signage at Mary Street Medical Centre, Mary Street, Clonmel, Co. Tipperary.

Planning Application

Planning Authority: Clonmel Borough Council
Planning Authority Reg. Ref.: 12/265
Applicant: Colman Walsh
Type of Application: Permission
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Pat Bourke
Type of Appeal: Third Party V Grant
Observers: None
Date of Site Inspection: 3rd July 2013

Inspector: Kenneth Moloney

1.0 SITE DESCRIPTION

The appeal site is located within an existing medical centre situated at the corner of Mary Street and Morton Street in the Clonmel Town centre.

The subject building, although part of the existing adjoining medical centre, has independent access onto Mary Street. The medical centre is a part two-storey and part three storey building and consists of the entire block onto Mary Street between Morton Street and William Street.

The appeal site relates to the ground floor area of an existing two-storey building. The appeal site is currently undergoing refurbishment works and is not in use.

The appeal property has a wooden door and pvc windows facing onto Mary Street. The first floor elevation of the appeal property onto Morton Street is a tile elevation and there are two gable windows.

2.0 PROPOSED DEVELOPMENT

The proposed development is for a change of use from medical centre to retail pharmacy for part of ground floor, entrance ramps / steps complete with rail and signage.

The floor area for the proposed use is 61 sq. metres and access of the proposed use is onto Mary Street.

3.0 PLANNING AUTHORITY'S DECISION

The Planning Authority decided to grant planning permission subject to 6 conditions, all of which are standard conditions.

Internal Reports: There are no internal reports on the file:

Objections: There is one third party objection on the planning file and the issues raised have been noted and considered.

4.0 PLANNING HISTORY

- L.A. Ref. 12/50 – Permission granted to amend L.A. Ref. 11/21. This includes to retain as constructed repaired and rebuilt fabric of original walls and roofs and to complete the development of the extension to Mary Street Medical Centre.
- L.A. Ref. 12/49 – Permission granted to alter and extend existing ground floor consulting rooms and to construct a lift shaft over 3 floors to the rear of no. 26 William Street, part of Mary Street Medical Centre.
- L.A. Ref. 11/21 – Permission granted for an extension to Mary Street Medical Centre, the development will include a change of use of two dwellings no. 13

and 14 Mary Street to medical centre and the construction of a single storey level extension to rear.

5.0 DEVELOPMENT PLAN

The relevant development plan is the Clonmel and Environs Development Plan, 2008, where the site is zoned CA 'To provide for central area uses'. Section 9.1.10 and Section 9.1.11 sets out the objectives and guidance for this zone.

Policy DM.1 states that it is the policy of the Council to determine applications for development in accordance with the land-use zoning map and the land-use zoning matrix in order to:

- Direct compatible land uses to areas reserved for such use
- Ensure land use zones are protected from competing and incompatible uses
- Encouraging non-conforming uses to relocate away from the primary use zone

Section 9.2.2 sets out the Land Use Matrix and indicates uses that are permitted, open for consideration and not normally permitted in the CA zone.

The following policies are relevant considerations;

- Policy TC.7 – Development Management
- Policy BH.3 – Architectural Conservation Area

6.0 GROUNDS OF APPEAL

Paul Bourke lodged an appeal and the grounds of appeal are summarised as follows:

- The appeal site is located within an A.C.A. and situated on the opposite side of the public road from St. Mary's Church.
- St. Mary's Church is probably the oldest architectural site in the town.
- The proposal with signage and railings will take-away from the architectural heritage of the area.
- The proposal will change the character of Mary Street and create scope for more old houses within the ACA to change to commercial uses.
- There are 15 premises unoccupied in the town and therefore there is no need for the proposal to be located at the subject premises.
- The proposed signage, ramp and neon-lighting are not in keeping with the streetscape.
- The proposed ramp will impact on pedestrian traffic and disability access.
- There is inadequate parking provision in the area having regard to existing residential areas, serving of the proposed development and traffic generation associated with the proposed development.
- There are double yellow lines in the immediate area of the appeal site and Morton Street operates a one-way traffic system.

7.0 RESPONSES

First Party Response

The following is the summary of a response submitted by the applicant's agent;

- It is contended on the basis of the appeal submission that it is likely the appeal is generated from a competing business.
- The appeal is vexatious and should be dismissed accordingly.
- The issues raised in the appeal were adequately dealt with by the planners report.
- The appeal submission lacks any coherent reasoning and fails to take account of the zoning objective for the area.
- The proposal will have minimal impact on the building and will not detract from the character of the ACA.
- The proposed ramp and rail are a building regulation requirement. Their design is in accordance with accepted architectural practice.
- The area to the front the building is the property of the developer and not a public footpath.
- The proposal reflects a small garden space and railings similar to adjoining building.
- The proposal re-establishes the boundary line of the property.
- The established width of the public footpath is maintained.
- The proposal includes a public seat from which it will be possible to admire St. Mary's Church.
- The proposal will comply with Part M of the Building Regulations.
- Having regard to the scale of the proposal, i.e. 40 sq. metres, it is not envisaged that the proposed development will generate additional parking requirements or traffic movements.

Second Party Response

The following is the summary of a response submitted by the local authority;

- The site is located within Central Area / Mixed Use zone.
- The proposal is permissible in principle.
- The proposal would not result in any noise or odours that would have an adverse impact on residential amenities.
- The development plan does not restrict two no. pharmacies or shops within close proximity.
- The proposed development is considered acceptable in the context of the ACA.
- The sites location as an ACA does not preclude commercial development.
- The proposed ramp and planter are contained within the site boundary.
- The ramp and planter are considered acceptable provided encroachment onto the public footpath is kept to a minimum. It is recommended that the planter is rounded to avoid a sharp edge hazard for pedestrians. The bord is requested to incorporate this item within a grant of permission as a condition.
- There is adequate parking provision in the area for both customers and deliveries.

8.0 ASSESSMENT

Prior to considering this assessment it is important to note that the applicant, in their response to the appeal submission, contends that the appeal submission is vexatious. I have examined the appeal submission and I am of the opinion that the submission has raised valid planning issues and therefore I would not recommend, to the board, to dismiss the submitted appeal on the grounds that it is vexatious.

The main issues to be considered in this case are: -

- Principle of Development
- Architectural Heritage
- Parking Provision

Principle of Development

The zoning provision of the appeal site is 'CA' i.e. to provide for central area uses. The proposed pharmacy use is a retail shop and in accordance with the land-use zoning matrix as outlined in Chapter 9 of the Clonmel and Environs Development Plan, 2008, the proposed use is permitted in principle.

I would consider therefore that the principle of the proposed development would be acceptable provided that the proposed development does not adversely impact on the amenities of the area.

Architectural Heritage

I would note that the subject property, i.e. no. 14 Mary Street, obtained planning permission as part of a larger development under L.A. plan ref. 11/21. No. 14 Mary Street obtained permission for a waiting room and a consulting room as part of the adjoining medical centre. I noted from the submitted drawings of this history application the no changes were proposed to the front elevation of no. 14 Mary Street.

The current appeal before the Board relates to alterations to the front elevation of no. 14 Mary Street. These alterations include the provision of a ramp, planter and public seat to the front of the property. The alterations also include a double sided illuminated projecting sign at first floor level and additional signage attached to the ramp wall and front façade. The precise detail of the signage to the front of the building has not been outlined in the application documentation.

The appeal site is located within the confines of the Old St. Mary's Architectural Conservation Area and Policy BH2 of the Clonmel and Environs Development Plan, 2008, outlines that this area has traditional layout, design and unity of character. An ACA is a place, area, group of structures or townscape, taking account of building lines and heights, that is of special interest and it is a development plan policy to protect this area.

The appeal site is situated on the opposite side of the street from St. Mary's Church.

The front boundary of the church grounds, facing onto Mary Street, includes a low stone wall with railings above. St. Mary's Church is set back from the front boundary and there is an historic graveyard within the church grounds and to the front of the church boundary. St. Mary's Church (C.O.I) was built in the 13th century and the east and west windows date from 15th century. There were alterations to the church during later centuries and the church was reconstructed in 1857. Bolton Street is generally comprised of two-storey terraced housing although there is a 3-storey period house amongst the two-storey buildings.

I noted from a visual observation of the area that no. 14 Mary's Street has a façade that is consistent with no. 13 and 15 Mary Street. I would consider that the uniform streetscape contributes to the character of the area. I also note that there is an established pharmacy located on the corner Bolton Street and William Street, approximately 25 – 30 metres from the appeal site, and this pharmacy has corporate signage and colouring. However, in general, the historic character of Mary Street is maintained and this includes the adjoining medical centre which has low-key signage.

On the basis of the submitted drawings, a visual observation of the area and the Development Plan objectives I would consider that the proposed change of use would not detract from the special architectural and townscape qualities of the ACA. However I would consider that the proposed first floor projecting sign would detract from the visual amenity of the area and set an undesirable precedent for other such development in the area. I would recommend to the Board, should they favour granting permission, that the projecting sign is omitted by condition.

Parking Provision

The parking requirement for the proposed development is two spaces and this is outlined in Table 2 of Chapter 9 of the Clonmel and Environs Development Plan, 2008. The permitted use on the appeal property is one consulting room and a waiting room which would have a parking requirement of 1 space in accordance with Development Plan provisions. However prior to L.A. Ref. 11/21 I would note that the established use on the subject site was residential which would have a parking requirement of two spaces. I would consider that this previous use and the proposed use would have a neutral impact on the parking requirements.

Accordingly I would consider that the parking provision for the proposed change of use would be acceptable and would not unduly impact on the traffic safety in the area.

9.0 RECOMMENDATION

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the zoning of the of the site, the size and scale of the proposed development and its location, it is considered that, subject to compliance with the conditions set out below the proposed development would not contravene the zoning objectives for the area, would not seriously injure the residential amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by drawings received by the planning authority on the 20th December 2012, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The proposed development shall be modified as follows:

(a) The propose illuminated double sided projecting sign at first floor level shall be omitted from the development. Revised drawings showing compliance with the above requirement shall be submitted to the planning authority for written agreement prior to the commencement of development.

Reason: In the interests of visual amenity and protecting the special interest of the ACA.

3. Any externally visible advertising signs, symbols and nameplates shall be submitted for the written agreement to the planning authority prior to the commencement of development.

Reason: In the interest of visual amenities.

4. Prior to commencement of development, details of the materials, colours and textures of the proposed ramp, railings and planter shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

5. Security shutters, if required, should be located behind the windows and shall be of the lattice see-through type. Full details shall be submitted to the planning authority for agreement.

Reason: In the interest of visual amenity.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

9. All service cables associated with the proposed development (such as electrical, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

10. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of amenities and public safety.

Kenneth Moloney
Planning Inspector
16th July 2013