

An
Bord
Pleanála

Board Direction
BD-011126-22
ABP-313171-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/08/2022.

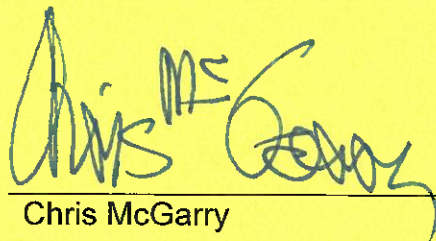
The Board decided by a majority of 2:1 to refuse permission for the following reasons and considerations.

Reasons and Considerations

Having regard to the totality of the Kilkenny City and County Development Plan 2021 – 2027, including the zoning objective for the site and the provisions of the Plan relating to non-conforming uses, the planning history of the site, the established building on site within which the footprint of the proposed change of use is located, and which incorporates healthcare use as the predominant use of the building, to the nature of the change of use sought which is for a pharmacy retail which will operate as a separate unit, it is considered that the proposed development would materially contravene the zoning objective for the site for the use solely or primarily as amenity/greenlinks/biodiversity/conservation/open space/recreation and by the nature of the proposed use would not be consistent with the provisions of the Development Plan as they relate to non-conforming uses. In this regard, it is considered that the proposed development would, therefore, not be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered the totality of the documentation submitted with the application and appeal, the relevant provisions of the statutory development plan and concluded that the proposed change of use to a pharmacy retail unit, described in the statutory notices as operating as a separate unit, would not constitute an ordinarily incidental or auxiliary use to the overall health complex. As a consequence, the Board concluded that the proposed use would be inconsistent with the proper planning and sustainable development of the area having regard to the current zoning of the site and noting the planning history of the building within which the change of use is sought. In reaching this conclusion the Board fully agreed with the Inspector that it is not a function of the planning system to regulate competition between businesses.

Board Member



Chris McGarry

Date: 18/08/2022