

An Bord Pleanála



Inspector's Report

PL06F.245724

DEVELOPMENT

Description: Material alterations and change of use from retail to medical centre at unit no. 2 at ground floor level and change of use from offices to medical centre and 1st and 2nd floor level and retention of planning permission for unit no. 4 as a G.P. Surgery at ground floor level.

Address: Albany House, Dublin Road, Swords, County Dublin.

PLANNING APPLICATION

Planning Authority: Fingal County Council

Planning Authority Reg. No: F15A/0381

Applicant: Martin Curley

Application Type: Planning Permission and Retention of Planning Permission

Planning Authority Decision: Grant

APPEAL

Appellant(s): Fiona Hunt

Types of Appeal: 3rd Party –v- Grant

Observers: None

Date of Site Inspection: 26/1/16

INSPECTOR: Paul Caprani

1.0 INTRODUCTION

PL06F.245724 relates to a third party appeal against Fingal County Council's notification to grant planning permission for material alteration and change of use within an existing building known as Albany House on Main Street Swords from retail and office use to use as a medical centre. Retention of planning permission is also sought in respect of unit 4 of the building for use as a GP surgery. The grounds of the third party appeal raise concerns in respect of access to the building, car parking provision and disruption to the appellant's business during construction phase. A number of procedural issues in dealing with the application were also raised.

2.0 SITE LOCATION AND DESCRIPTION

The appeal site is located on the eastern side of Main Street, Swords near the junction of Swords Main Street and Forest Road, opposite the Lord Mayor's public house. The site occupies a three-storey building with a mansard type roof and the building is centrally located within the site. The set back of the building from the road provides 14 on-street car parking spaces to be provided between the building and Main Street. An access road runs along the south-western side of the building and provides 14 surface car parking spaces to the rear. The access road to the rear of the building is just under 5 metres in width and also provides access to an electrical supply retail outlet. The Pavilion's Shopping Centre is located on land further to the rear. A narrow pedestrian laneway runs along the north-eastern boundary of the site a three-storey building fronts directly onto the public road on the opposite side of the Laneway. A derelict residential dwelling is located on lands to the south of the site.

The existing building on site comprises of a three-storey structure. The ground floor accommodates four separate units, unit no. 1 which is located at the north-eastern end of the building accommodates a printer and photocopying business. Unit no. 2 and 3 are currently vacant while unit no. 4 accommodates an existing G.P. surgery. Retention of planning permission is sought for this latter use under the current application. At first floor level a number of offices are served by a central stairwell. It appears with the exception of the area above retail unit no. 1 (the photocopying/printing business), the other office space is currently not in use. At second floor level the drawings indicate that

approximately half of this floor is currently used by offices while the north-eastern part of the building is vacant.

3.0 PROPOSED DEVELOPMENT

Planning permission is sought for the following:

- Retention of the existing G.P. surgery in unit no. 4 at ground floor level.
- A change of use in retail unit no. 2 from retail to medical centre use.
- At second floor level planning permission is sought for a change of use from office accommodation to medical centre above retail units 2, 3 and 4.
- At second floor level planning permission is sought for a change of use from office accommodation to a medical centre in the north-eastern part of the building above existing retail units 1 and 2.

The overall building has a gross floor area of 700 square metres. Under the current application a change of use from retail and office to medical centre amounts to 357 square metres. It appears from the drawings submitted that the existing G.P. surgery at ground floor level in unit no. 4 amounts to a gross floor area of approximately 70 square metres.

4.0 PLANNING AUTHORITY'S DECISION

The planning application was lodged with Fingal County Council on 18th August, 2015. A letter of consent from the owner of the building was submitted permitting the applicant to make a planning application for the change of use and material alterations. Covering letters submitted with the application indicates the Development Plan requires a total of 27 spaces for the uses proposed and a total of 28 spaces are provided on site. It is also stated that the number of water closets within the building will be reduced.

A report from the Water Services Section of Fingal County Council states that there is no objection to the proposal. A report from Irish Water states that there is no objection to the proposed development subject to two standard conditions.

A report from the Environmental Health Officer stated no objection subject to a total of 11 conditions. A letter of objection from the current appellant was submitted by Michael O'Neill, Town Planning and Development Consultant.

A report from Fingal County Council Transportation Planning Department notes the car parking requirements concludes that there is no intensification of use and therefore no objection to the proposed development. It is also noted that the proposed development is located in a town centre with a good transportation service.

The planner's report assesses the proposal in accordance with the zoning objectives relating to the site and it is deemed that the proposal is acceptable in principle. It is also concluded that the proposal will not have an impact on the general amenity of the area. It is therefore considered that the proposed development is acceptable in this town centre location. No negative impact will arise in terms of visual or general amenity and it is recommended that planning permission be granted for the proposed development.

In its decision dated 12th October, 2015 Fingal County Council issued notification to grant planning permission subject to 10 conditions.

5.0 PLANNING HISTORY

No appeal files are attached. The Local Authority Planner's Report notes that no planning history in respect of the site has been found and it is assumed that the parent application for this building was built in the late 1980s.

6.0 GROUNDS OF APPEAL

The decision of Fingal County Council to issue notification to grant planning permission was appealed on behalf of Ms. Fiona Hunt by O'Neill Town Planning and Development Consultants. The grounds of appeal are outlined below.

It is stated that Ms. Fiona Hunt is a tenant of the existing building on site and it is stated that no information was furnished to the tenant in respect of the works proposed under the current application. The appellant can currently access the building through both the front and rear elevations.

Under the current alterations to be undertaken, it is proposed to block up the existing entrance to the rear of unit 2 thereby denying the appellant access from the rear of the building. The front and rear access to the client's office is important as fire escapes. Concern is expressed that the internal alterations proposed will change the way the building is being managed and will greatly discommode her business.

It is also considered that the proposed development will not have the necessary car parking spaces to service the change of use. It is suggested that the existing uses on site have a car parking requirement for 33 spaces, thus the current car parking provision on site falls short of requirements. It is suggested however that the proposed development will have a deficit of 12 car parking spaces and this is based on standards set out in the Fingal County Development Plan. Concern is expressed that the six car parking spaces specifically reserved for the appellant will no longer be available.

It is proposed to develop a sizeable medical centre yet there are no details in respect of the management of medical waste or ambulance services. It is also suggested that Swords is well served by GP surgeries, dental surgeries, pharmacies and other medical services.

A number of procedural issues are also raised suggesting that the drawings submitted do not comply with Articles 20-23 of the Regulations on the grounds that:

- No survey drawings showing contours of the site were submitted.
- No contiguous elevations on adjoining sites were submitted.
- The access road through the subject site at 4.25 metres is too narrow to cater for existing traffic.
- No SUDS assessment or report was submitted.

It is also suggested that the proposed development fails to integrate in terms of design with existing businesses on site and would have a significant impact on the quality of the working environment of the appellant and this is contrary to the objectives of the Development Plan. Concerns are expressed that the layout of car parking within the existing site does not meet current standards.

The location of the site at a very busy controlled road junction with a pedestrian crossing will create further hazards for patrons and car users seeking to visit the facility. The proposed uses on site represent an over development of the site and are in material contravention of the statutory Development Plan given the shortfall in car parking spaces provided.

7.0 APPEAL RESPONSES

7.1 Applicant's Response to the Grounds of Appeal

A response was received on behalf of the applicant from WCA Architects is briefly outlined herewith. With regard to the removal of the rear access door, alternative access is available via the new medical centre entrance and this could also include use of the proposed lift subject to the tenant's (appellant's) approval. It is also confirmed that the proposal has been designed in accordance with Parts B and M of the current Building Regulations and a Fire Safety Certificate and a Disability Access Certificate has been obtained for the proposal.

In respect of procedural issues it is stated that all information submitted to Fingal County Council was examined and validated by the Planning Authority. There is no requirement to provide a SUDS assessment report. Nowhere in the information submitted does it state that the applicant would be denied car parking spaces or access to the building.

The proposed development is fully in accordance with the Development Plan policies and zoning objectives as they relate to the site. The applicant will continue to have full access to the offices at second floor level.

With regard to car parking, it is stated that taking into account the proposed development and the existing remaining uses within the building, there is a requirement for 28 car parking spaces. The number of spaces provided within the curtilage of the development is also 28 and therefore in full compliance with Development Plan requirements. In relation to the number of disabled car parking spaces required, a Disability Access Certificate has been granted and this will cater for any car parking spaces required.

With regard to traffic access arrangements, all vehicles entering and exiting the premises over the period have used the existing site

entrance off the Dublin Road without any major incidents. The proposal does incorporate any increase in car parking spaces or trip generation. The Fingal County Council Transport Section considered the existing arrangements to be acceptable.

7.2 Fingal County Council's Response to the Grounds of Appeal

It is stated that the uses proposed within the building are fully compliant with the land use zoning objectives for the site. In relation to car parking provision, the proposed change of use does not represent an intensification of use on site in terms of parking demand. The site must also be assessed in the context of its town centre location and the availability of public transport and on street car parking in the vicinity of the site thus the provision of car parking on site conforms to the requirements of the Development Plan and is sufficient to serve the existing and proposed uses within the building.

8.0 DEVELOPMENT PLAN PROVISION

The site is governed by the policies and provisions contained in the Fingal County Development Plan 2011-2017. The site is governed by the zoning objective MC "to protect, provide for and improve major town centre facilities". The vision under this zoning objective is to consolidate existing major towns in the county (Blanchardstown, Swords and Balbriggan). The aim is to further develop these centres by densification of appropriate commercial and residential developments ensuring a mix of commercial, residential, civic, cultural, leisure, educational uses and urban streets while delivering quality urban environment which will enhance the quality of life of resident, visitor and workers alike. The zoning will strengthen retail provision in accordance with the County Retail Strategy, emphasise urban conservation, ensure priority for public transport, pedestrians and cyclists when minimising the impact of private car based traffic and enhance and develop the existing urban fabric. In order to deliver this vision and to provide a framework for sustainable development, Master Plans will be prepared for each centre.

Section 7.6 of the Development Plan relates to community infrastructure. Objective CL03 seeks to ensure community facilities are flexible in the design and promote optimum usage.

Objective CL05 seeks to ensure provision of accessible community facilities and services in new and established areas to provide for the wellbeing of residents.

Objective CL34 seeks to support and facilitate the development of health centres, hospitals, clinics and primary care centres in appropriate urban areas.

Objective CL37 seeks to facilitate the provision of new health services in towns, villages and local centres with good accessibility particularly for people with a disability.

9.0 PLANNING ASSESSMENT

I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I consider the most important issues in determining the current application and appeal before the Board are as follows:

- Compliance with Fire Regulations
- Impact from Construction Works
- Procedural Issues
- Car Parking Provision and Layout
- Other Issues

9.1 Compliance with Fire Regulations

The grounds of appeal argue that the removal of a rear door access to the building as part of the alterations to be carried out under the proposal could give rise to fire safety compliance issues. The requirement of obtaining a fire safety certificate is assessed under a separate regulatory code to that of planning, and as such is not a matter for the Board in its deliberations of this application. However the applicant in his response to the grounds of appeal stated that a Fire Safety Certificate has been obtained in respect of the proposal. The applicant has also indicated that should the appellant approve, the new lift shaft would also provide full access to the appellant's offices.

9.2 Construction Works Issues

A major theme highlighted throughout the grounds of appeal is that the proposed construction works could greatly discommode the appellant's

business during the lifetime of the works. The proposed works to be undertaken on site mainly relate to minor internal alterations of the building. The drawings submitted indicate that many of the main internal walls will be retained throughout the construction works and much of the internal works will relate to the refitting and the creation of new openings within the existing layout. While these works will inevitably give rise to some noise and dust generation throughout the course of the works, construction works are by their nature temporary and are a necessary part of any redevelopment of a building and therefore do not in my view constitute reasonable grounds for refusal.

9.3 Procedural Issues

The grounds of appeal raise some procedural issues with regard to the processing and validating of the application by Fingal County Council. These procedural issues essentially related to compliance with Articles 20 to 23 of the Planning and Development Regulations, 2001 (as amended). The issues raised in the grounds of appeal in my view cannot be considered fatal or detrimental to the overall application and have not in my opinion in any way prejudiced third party rights in respect of commenting or appealing the decision. Specifically I would comment as follows:

- I do not consider it necessary that a drawing be required showing contours of the site in question. The site is a flat site with no natural topography or features, it being located in an urban area. The site comprises of a building and artificial hard standing which is currently used for car parking. Thus a contoured map would be of no benefit or relevance to the application in this instance.
- Secondly the building in question is a standalone building and does not adjoin any buildings. As such there are no contiguous elevations in respect of the subject building. It cannot be argued in my view that the Planning Authority or the applicant have erred in law in this regard.
- The appellant has not indicated where in the regulations there is a requirement of the applicant to submit a SUDS assessment or report. The proposal is to avail of public services and utilities to cater for the proposal. It is clear from the planning application form that the proposed surface water disposal is to be via a public sewer/drain and as such, SUDS assessment is not relevant or required in this instance.

- Finally in relation to procedural issues reference is made to the width of the access road to serve the building behind. The grounds of appeal argue that the access road is of insufficient width to cater for large vehicles including ambulances as it is only 4.25 metres in width. It appears from the site plan that the access road is considerably wider than this amounting to just under 5 metres in width. Having inspected the site I consider the side access to be more than adequate to cater for the width of large vehicles.

9.4 Car Parking Provision and Layout

The grounds of appeal argue that currently there is a shortfall in the car parking provision of six spaces to cater for the uses within the building. Furthermore it is argued that if the proposed development were to proceed, the shortfall in car parking spaces would be further increased to 12 spaces. It is also stated that insufficient provision has been made for disabled car parking.

With regard to the amount of spaces provided, I note that:

- Seven consulting rooms are to be provided within the medical facility. The Development Plan requires 2 spaces to be provided per consulting room, resulting in a requirement for 14 spaces. The existing doctor's surgery incorporates two consulting rooms therefore an additional four spaces would be required.
- The office facility to be retained at second floor level amounts to approximately 117 sq.m. And on the basis of one space required for every 25 sq.m. (GFA) - A total of 5 spaces would be required.
- The retail element (approximately 60 square metres) would require three parking spaces (1 space per 20 sq.m.)
- In total therefore, in accordance with the provisions of the Development Plan, 26 off-street car parking spaces should be provided on site (14 + 4 + 5 + 3 = 26). The applicant in this instance is providing 28 spaces. The proposed development therefore fully complies with Development Plan requirements regarding car parking.

Having regard to the fact that additional two car parking spaces beyond that required in the Development Plan are incorporated on site, I consider that there is sufficient scope to incorporate wider disabled car parking spaces within the site. Having inspected the site I consider that there is sufficient scope to allow cars and larger ambulances to

manoeuvre within the confines of the site without creating a traffic hazard.

9.5 Other Issues

The grounds of appeal argue that the proposed development contravenes policies and provisions contained in the Fingal Development Plan on the grounds that the proposed development will be incompatible with the character and pattern of development of the area. The proposed development primarily involves a change of use within the footprint of the existing building. While it is proposed to incorporate some alterations to the exterior of the building, it would not result in a development which would be incompatible with the character and pattern of the existing environment. The proposed physical alterations to the external structure are minimal and would have a negligible impact on the visual amenities of the area. Furthermore it is clear that the proposed development fully accords with the zoning objective to protect, provide for and improve major town centre facilities and fully accords with the vision set out under the zoning objective referred to above. I am satisfied therefore that the proposed development does not materially contravene the provisions of the Development Plan.

Concerns with regard to a lack of specific details in relation to the management of medicines, medical waste or ambulance services are not key deliberations for the purposes of this application and appeal. The on-going management of the facility are a matter for the relevant authorities and are not strictly pertinent to the principle of the land use on the subject site.

Finally concerns are expressed in relation to traffic safety. The site provides direct uncontrolled access onto Swords Main Street however this access already exists and it is not proposed to be altered under the current application. The parking facilities are currently utilised on site and while the proposed development may result in an intensification of traffic to and from the facility over and above that which currently exists on site, the vehicular access is located in an area where the 50 kilometre speed limit applies and sight lines are acceptable in both directions. As with any access onto a public thoroughfare, the driver will have to exercise due caution on accessing and egressing the subject site. However the existing access arrangements do not pose a traffic hazard in my opinion and therefore do not constitute reasonable grounds for refusal.

10.0 Appropriate Assessment

The nearest Natura 2000 sites are the Malahide Estuary SAC (Site Code: 000205) and the Broadmeadow/Swords Estuary SPA (Site Code: 004025). Both European sites are located in excess of 1.8 kilometres to the north-east of the subject site. Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European Site.

10.0 CONCLUSIONS AND RECOMMENDATIONS

Arising from my assessment above I recommend that An Bord Pleanála uphold the decision of Fingal County Council and grant planning permission and retention of planning permission for the proposed development based on the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the zoning objective of the site it seeks “to protect, provide for and improve major town centre facilities”. It is considered that subject to conditions set out below, the proposed development would not seriously injure the visual amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development is therefore in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and 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.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

4. During the construction phase of the development best practice shall be employed to minimise air blown dust being omitted from the site. This shall include covering skips and netting of scaffolding and the daily washing down of pavements and other public areas in order to prevent dust nuisances.

Reason: In the interest of public health.

5. No additional advertising signs or structures shall be erected externally or on the shopfront of the premises except for those covered by exempted development regulations without prior approval of the planning authority or in default of any such agreement by An Bord Pleanála.

Reason: In the interest of visual amenity.

6. The development shall strictly comply with all the requirements of the planning authority particularly in respect of the following:
 - All drinking water points shall be serviced with a potable supply of water.
 - Sufficient artificial lighting shall be provided throughout the premises and parking area.

- Sufficient ventilation shall be provided for all sanitary accommodation areas.
- Suitable storage shall be provided for all waste and waste bins.
- Suitable facilities shall be provided for the segregation and safe storage and disposal of any sharps or medical waste and the applicant shall comply with any HSE requirements in respect of same.

Details of all the above shall be the subject of written agreement with the planning authority prior to the commencement of development.

Reason: In the interest of public health and the proper planning and sustainable development of the area.

7. Details of all external finishes resulting from the alterations of the building including materials, colours and textures of all such finishes shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of visual amenity.

8. The opening hours of the medical centre shall be between 8.00a.m to 9.00p.m. Monday to Sunday. Any changes to these times shall be subject to a new planning application.

Reason: In the interest of the proper planning and sustainable development of the area.

**Paul Caprani,
Senior Planning Inspector.**

3rd February 2016.
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