

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL09.245906

Development: Change of use of building from offices to provision of medical services, signage, replacement signage.
Wood's House, Kílcóck Road, Clane, Co. Kildare.

Planning Application

Planning Authority: Kildare County Council

Planning Authority Reg. Ref.: 15/871

Applicant: Follies View Ltd

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Brid Keegan

Type of Appeal: Third Party v Grant

Observers: None on file

Date of Site Inspection: 9th March 2016

Inspector: Sarah Moran

1.0 SITE LOCATION AND DESCRIPTION

1.1 The development site is located at the northern end of the centre of Clane, Co. Kildare. It is accessed via a narrow entrance off the R407 Kilcock road and is situated behind a terrace of houses. There is an existing 2 storey standalone office building (stated floor area 486 sq.m.) with a surface car park accessed via a narrow vehicular entrance from the street. The building is currently partially occupied by a funeral home facility. According to the documentation on file, it was previously occupied by the Kildare Area Engineer's office on the ground floor and by the Kildare Enterprise Board on the first floor. The site is surrounded by existing development including residential properties to the north, west and south, a service station and mixed use development to the south and a vehicle yard to the east, which is accessed via the car park serving the office building.

2.0 PROPOSED DEVELOPMENT

2.1 The proposed development involves converting part of the ground floor and all of the first floor of the existing building to a dental surgery with reception area, offices, clinical areas including 5 no. consulting rooms, sterile room, x-ray room, staff facilities, etc., total stated floor area 366 sq.m. The development also includes new signage located at the vehicular entrance to the site and a new car park layout. The development would connect to the existing public sewer and water supply.

3.0 PLANNING HISTORY

3.1 00/2087 and 00/2088

3.1.1 Relating to lands to the immediate west of the subject site, facing the R407. Permission was granted to demolish an existing bungalow and to construct 4 no. townhouses on lands to the immediate west of the development site facing the R407 under 00/2087. Permission was granted to construct a 1.5 story library and office building with separate access from the R407 under 00/2088 (the location of the subject site). The application included 31 no. car parking spaces. Condition no. 5 of the permission specified that the 6 no. parking spaces closest to the townhouses permitted under 00/2087 should be reserved for the use of those properties.

3.2 14/327

3.2.1 Relating to a stated area of 144 sq.m. on the ground floor of the existing building at the subject site. Permission granted for (a) subdivision of existing building; (b) alterations to elevation to provide a new separate entrance and (c) change of use of sub-divided unit into a funeral home and all ancillary site works. Condition no. 11 specified that car parking shall be monitored and in the event of the PA deciding that a shortfall in car parking exists, the

developer shall provide such extra car parking as the PA may specify at an approved location adjacent to the site and / or within the curtilage of the site.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and Technical Reports

- 4.1.1 Kildare County Council Maynooth Area Office 29th October 2015. No objection.
- 4.1.2 Kildare County Council Environment Section 2nd November 2015. No objection subject to requirements.
- 4.1.3 Kildare County Fire Service 10th November 2015. No objection subject to requirements.
- 4.1.4 Irish Water submission to PA 13th November 2015. No objection subject to requirements. Kildare County Council Water Services 6th November 2015. No objection subject to requirements.
- 4.1.5 Kildare County Council Transportation Department 23rd November. No objection.
- 4.1.6 Planning report 20th November 2015. Notes the relevant zoning objectives and considers that the proposed development is acceptable with regard to the location close to the town centre and to the existing commercial use of the site. Recommends permission subject to conditions.

4.2 Third Party Submissions

- 4.2.1 There are 2 no. third party submissions on file. These object to the planning application on grounds relating to over concentration of dental practices at this location to the detriment of a mix of uses that would facilitate the vitality of the town centre, also traffic congestion.

4.3 Planning Authority Decision

- 4.3.1 The PA issued a notification of a decision to grant permission on 23rd November 2015, subject to 9 no. conditions. None of the conditions imposed required any substantial change to the proposed development.

5.0 GROUNDS OF THIRD PARTY APPEAL

- 5.1 The appellant has an address at Sweetbriar Cottage, Dublin Road, Clane, Co. Kildare. The main points made may be summarised as follows:

- The site has for many years been in use as a low impact office block containing the Area Engineer's office and enterprise board offices. The original permission granted under 00/2088 was for a library and office use.
- The proposed dental use would not result in any improvement of the town centre as there are currently 2 no. dental practices and a medical centre less than 50m from the subject site. The development would not augment the range or mix of uses within the area and is thus contrary to proper planning and sustainable development with regard to the creation of sustainable neighbourhoods.
- The development would result in an over concentration of medical uses. The appeal notes that the proposed use would include extended opening hours.
- The appeal quotes the following statement from section 4.3.1 of the DoECLG document *Quality Housing for Sustainable Communities* (2009):

Successful communities require a range of local services and facilities, including employment, commercial, educational, health, spiritual, civic amenities and services. These should be accessible from residential areas by safe and convenient routes.

- The appeal quotes guidance provided in the DoECLG *Retail Planning Guidelines* (2012) regarding a desirable mix of uses at a town centre location.
- It is submitted that the applicant has been practicing for the past 10 years at Clane Hospital and currently has 2 no. consultants. The proposed development would therefore expand the practice by 150%.
- The development would contravene the Clane LAP 2009, which states that the town centre should be developed in a balanced manner, also that particular attention will be paid to the scale, density and appearance of proposed uses in zones abutting residential areas.
- The subject site is located <80m from the R407 / R407 junction, which is already very busy. The development would result in increased traffic congestion, noise, pollution and general disruption. This impact has not been anticipated by the Transportation Section of Kildare County Council.

6.0 RESPONSE OF PLANNING AUTHORITY TO THIRD PARTY APPEAL

6.1 The PA submits that the development is considered favourably in view of the town centre location of the site, the existing commercial nature of the building and adjoining site and the provisions of the Clane LAP 2009. The fact that there are other medical / health practices in the town is not an overriding planning consideration.

7.0 RESPONSE OF APPLICANT TO THIRD PARTY APPEAL

7.1 The main points made may be summarised as follows:

- Clane is designated as a Tier 1 Level 3 Sub County Town Centre under the Kildare County Development Plan 2011-2017. The plan states that such towns play an important strategic role in shopping patterns and the provision of services for their extensive hinterlands.
- The submission notes the relevant zoning objectives under the Clane LAP 2009, also town centre objective TC2.
- A commercial building was granted at the subject site in 2001. The building was occupied by Clane Area Engineering Office, KELT, Child Agency and the Kildare Enterprise Board, all departments or agencies of Kildare County Council and was constantly visited by the public until late 2015. The building accommodated 17 members of staff.
- The applicant has an established dental practice in Clane for over 10 years. The development would not involve an additional dental practice but the relocation of an existing practice to a larger vacant commercial premises at a town centre location.
- The development is accessible from the residential area by safe and convenient routes.
- The proposed development would involve the change of use of a currently vacant commercial building to accommodate a well-established dental practice. It would add to the vitality of the area.
- A key principle of the planning system is that it should not inhibit market competition. The Retail Planning Guidelines note the importance of strong competition in order to reduce retail costs.
- The existing building has been in commercial use for over 10 years with 17 staff, including the Area Engineer of Kildare County Council. The Area Engineer and the Transportation Department of the Council are very familiar with the site and have no objection. The entrance is located within the 50 kph zone and complies with DMURS.

8.0 POLICY CONTEXT

8.1 DoECLG Retail Planning Guidelines for Planning Authorities 2012

8.1.1 These guidelines update and replace the 2005 RPG. They state an overarching objective to enhance the vitality and viability of city and town

centres in all their functions through sequential development. They include a range of caps on the size of convenience and retail warehouse stores with the aims of ensuring both competitiveness in the retail sector and strong city and town centres. The following key policy objectives are identified:

- Ensuring that retail development is plan-led;
- Promoting city / town centre vitality through a sequential approach to development;
- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
- Delivering quality urban design outcomes

8.1.2 Chapter 2 of the RPG sets out a national retail hierarchy. Small towns and rural areas are at the 4th tier of the hierarchy (1,500 – 5,000 population category). These provide basic convenience shopping, either in small supermarkets or convenience shops and in some cases also provide comparison shopping, e.g. small-sale hardware, retail pharmacies and clothes shops. Section 4.11.5 states the following in relation to retailing in small towns and villages:

“The role of small towns and villages in the provision of retail services to their local urban and rural populations should be defined in development plans. Where appropriate, the maximum size of store, consistent with maintaining a variety of shops in the centre of these towns and villages and protecting an appropriate level of retail provision in the rural area, should be identified. In general there should be a clear presumption stated in favour of central or edge-of-centre locations for new developments.”

8.2 Kildare County Development Plan 2011-2017

8.2.1 Clane is designated as a ‘Small Town’ in the settlement hierarchy set out in the Core Strategy of the development plan. Such centres are described as having populations of between 1,500–5,000 with relatively small and locally financed businesses, also good bus and rail links. Settlement strategy section 3.4.3 states that the role of small towns is to develop as key local centres for services with levels of growth to cater for local need at an appropriate scale and to support local enterprise to cater for local demand. The rate of growth will be controlled to limit pressure on services, the environment and unsustainable commuting patterns. The economic strategy set out in Chapter 5 of the plan designates Clane as a ‘local employment centre’, where the Council will seek to encourage new local employment opportunities and assist in reducing long distance commuting patterns and thus creating more sustainable communities.

8.2.2 Chapter 9 of the plan sets out retail policy, based on a review of the 2008–2016 Kildare County Retail Strategy. Policy R2 states:

“To guide retail development where practical and viable in accordance with the framework provided by the Sequential Approach to enable the vitality and viability of existing town, village and district centres to be sustained and strengthened.”

Clane is listed as “Tier 1 Level 3 Sub County Town Centre” in the retail hierarchy, along with Athy and Kildare Town. Section 9.5.5 states that Clane is designated as such in recognition of the growth in its population and retail floorspace, its further potential and the strategic spatial deficiency in main centres in the north of the Central Sub Area of the County. These centres are to play an important strategic role in the shopping patterns of their generally extensive hinterlands particularly, but not exclusively, in respect of main food shopping. Policy R20 aims to promote and encourage major enhancement and expansion of the retail offer and town centre functions of Clane. Policy R22 states:

“To progress the redevelopment / regeneration of town centre sites. Any expansion of Clane’s main food and comparison offer should be in the town centre or appropriate edge of centre locations.”

Section 9.6.9 relates to non-retail uses in core areas and other main streets. It notes that the introduction of non-retail and lower grade retail uses in Core Retail Areas and other main streets has changed the characteristics and ambience of these centres. Such uses may include amusement/gaming arcades, bookmakers, hot fast food outlets, budget shops, charity shops, telephone / mobile shops and business and financial services. To maintain the integrity, critical mass of quality retail activity, viability and vitality of Core Retail Areas and other main streets, the Council will seek to discourage an overconcentration of the aforementioned uses in prime retail areas.

8.2.3 Chapter 11 of the plan deals with health services. Policy HS1 states:

“To support and co-operate with promoters or operators of public and private health care facilities by facilitating and encouraging the provision of improved health care facilities in appropriate locations.”

8.3 Clane Local Area Plan 2009-2015

8.3.1 The site is partially within the town centre area as per map 5(b) of the Clane LAP. Zoning objectives A (commercial, civic and office uses) and B (residential) apply.

9.0 ASSESSMENT

9.1 The following are the issues considered relevant in this case:

- Principle of development
- Traffic and parking
- Other issues
- Conclusion

These may be considered separately as follows.

9.2 Principle of Development

9.2.1 The site is partially within the town centre area as per map 5(b) of the Clane LAP. Zoning objectives A and B apply. The western end of the site is subject to zoning objective A, which states:

“To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic uses.”

The eastern end of the site is subject to zoning objective B, which states:

“To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.”

Table 14 Zoning Matrix identifies ‘*Medical and related consultants*’ as permitted under zoning objective A and open for consideration under zoning objective B. LAP section 1.3.2 defines ‘open for consideration’ as follows:

“Land uses shown as ‘Open for Consideration’ are uses that are not considered acceptable in principle in all parts of the relevant use zone. However, such uses may be acceptable in circumstances where the Council is satisfied that the proposed use would not conflict with the general objectives for the zone and the permitted or existing uses as well as being in the interests of the proper planning and sustainable development of the area.”

Having regard to this definition, I consider that the proposed development should be considered on its merits.

9.2.2 The overall development strategy as stated in the LAP is to consolidate Clane as a self-sustaining town. LAP section 7.1 states an intention to promote the revitalisation and consolidation of central town centre sites. It states:

“The Council recognises the importance of maintaining a strong retail base in the town centre and will direct appropriate retail, commercial and other uses to the town centre. The Council recognises the need to develop a stronger service sector which will strengthen Clane as a growth centre.”

The subject site is immediately adjacent to and partially within the town centre. It is considered that the development would promote the achievement of this objective. While the concerns stated by the appellant are noted, I do not consider that the redevelopment of this currently vacant office building would detract from the vitality or the viability of Clane town centre, or contravene town centre objectives set out in the LAP. On the contrary, I consider that it is likely to attract visitors to the area and could generate multi-use trips, thus supporting town centre development.

- 9.2.3 The appellant states concerns that the development would result in an over-concentration of dental practices in Clane. I accept the point of the applicant that the proposal involves the relocation and expansion of an existing dental practice rather than the establishment of a new one. In addition, I note that the proposed dental surgery use is not specified in section 9.6.9 as an undesirable or “lower grade” non-retail use that should be discouraged in core areas and main streets, e.g. bookmakers, gaming arcades.
- 9.2.4 The development would not result in substantial external changes to the building. The nature and scale of the proposed use are in keeping with the residential nature of adjoining properties. I do not consider that there would be any significant adverse impact on visual or residential amenities.
- 9.2.5 To conclude, it is considered that the proposed development is acceptable at this location with regard to the policies set out in the Clane LAP.

9.3 Traffic and Parking

- 9.3.1 The principal issue that arises is the compatibility of the proposed dental surgery use with the existing funeral home at the site with regard to parking and traffic congestion. The site layout indicates a total of 34 no. car parking spaces. The parking requirement generated by the existing and proposed development at the site may be considered with regard to County Development Plan car parking standards as follows:

Land Use	CDP parking standard	Requirement
Clinics and group medical practices	2 spaces per consulting room	2 x 5 = 10 spaces
Town centre office	1 space per 25 sq.m. GFA	342 sq.m. = 14 spaces
Funeral home	No specific parking standard	

As can be seen, the existing office use at the site generates a greater parking requirement than the proposed dental surgery use. I note that condition no. 5 of 00/2088 required that the 6 no. parking spaces closest to the townhouses permitted under 00/2087 should be reserved for the use of those properties. Given the required allocation of 10 spaces for the proposed development as above, this would leave a remaining 18 no. spaces at the car park for the funeral home use. While it is acknowledged that the funeral home would result

in a surge in parking demand during funerals, such events are likely to take place at times when the proposed dental facility is closed or off peak, i.e. evenings, thus there would be a certain amount of complementary usage. In addition, I note condition no. 11 of Reg. Ref. 14/327 (the funeral home permission) specifies that car parking shall be monitored and that, in the event of the PA deciding that a shortfall in car parking exists, the developer shall provide such extra car parking as the PA may specify at an approved location. In any case, I do not consider that a dental surgery at this location would be less compatible with the funeral home than the existing offices with regard to parking demand.

9.3.2 The grounds of appeal raise the issue of traffic congestion in the vicinity. Again, I do not consider that the proposed development would generate greater traffic hazard or congestion than previous / permitted uses of this building, i.e. Area Engineer's Office, County Enterprise Board, library. I note that the Transportation Department of Kildare County Council has no objection.

9.3.3 To conclude, I consider that there is adequate parking to serve the proposed development and that it would not result in an undue traffic hazard.

9.4 Other Issues

9.4.1 I note that the technical reports on file have no objection to the development, subject to requirements. Having regard to the nature and scale of the development within a fully serviced suburban location, 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 or projects on a European site.

9.5 Conclusion

9.5.1 I consider that the nature and scale of the development is such that it is acceptable at this location, is compatible with the zoning objectives and if permitted would not detract from the vitality and viability of Clane town centre. Having regard to the existing uses at the site, impacts on visual or residential amenity are not relevant to this case. I consider that adequate parking exists within the existing car park. I have no information before me to believe that the proposal if permitted would lead to the creation of a traffic hazard nor be prejudicial to public health. Having regard to all of the above, I consider that the proposed development is acceptable and consistent with the proper planning and sustainable development of the area. Accordingly, I recommend that permission is granted in this case.

10.0 RECOMMENDATION

- 10.1 Having regard to the foregoing, I recommend that permission be granted for this development for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the location of the proposed restaurant in an existing commercial building at the edge of Clane town centre, where there is adequate parking already available and to the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the vitality and viability of Clane town centre, would not have an adverse impact on visual or residential amenity, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

1. The development shall be carried out in accordance with the plans and particulars lodged with the planning authority on the 30th day of September, 2015 and as lodged with the appeal to the Board on 12th January 2016, except as may otherwise be required in order to comply with the following conditions.

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. Traffic, access, lighting and parking arrangements shall comply with the requirements of the planning authority for such works and services.

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

3. No additional signs, symbols, nameplates or advertisements shall be erected on the proposed site without a prior approval of the planning authority whether or not such development would otherwise constitute exempted development.

Reason: In the interest of visual amenity.

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning

and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Sarah Moran,
Senior Planning Inspector,
29th March 2016