



An
Bord
Pleanála

Inspector's Report PL26.246606

Development	Change of use of ground floor of Unit 3 from retail use to veterinary clinic including associated internal modifications and external signage at Knockmullen Retail Park, Knockmullen Road, Gorey, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20160187
Applicant(s)	Brayvet
Type of Appeal	Third party against grant
Planning Authority Decision	Planning permission subject to conditions
Appellant(s)	Shane McGuckin
Observer(s)	None
Date of Site Inspection	26 th August 2016
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1. The site is located approximately 700m to the south of Gorey town centre on Knockmullen Road (R741). The site forms part of Knockmullen Retail Park, which is located on the eastern side of the R741, just to the south of the mainline railway line and train station. The lands to the west of the R741 are in residential use, comprising housing estates including Ramsgate village and Meadow Gate. Unit 3 is a vacant ground floor unit within the retail park. The Knockmullen Retail Park comprises a number of commercial units including two large units which are in use as a hardware store, (Heiton Buckley's) and an electrical goods shop (Expert). The remainder of the units are smaller and are in use as offices and a Chinese Restaurant. Access to the retail park is from the R741 and there is a car park serving the units.
- 1.2. Unit 3 is a two storey unit, the ground floor section of which is currently vacant. The first floor of the unit is occupied as offices. Unit 2 is also two-storeys and is occupied as offices. Unit 1 is a larger unit at the eastern end of the block and is occupied as a restaurant. The Expert electrical goods shop is attached to Unit 3, but the frontage is set back at the point where the units join, and is set substantially forward further to the west. The Heiton Buckley store is a large detached building located to the north of the retail park. There are approx. 7 parking spaces immediately to the front of the units, which are shared.
- 1.3. I refer the Board to the appendices to this report which include maps, photos and aerial photos of site.

2.0 Proposed Development

2.1. Main elements of proposal:-

- Change of use of ground floor of Unit 3 (138m²) from retail to a veterinary clinic
- Clinic consists of a consulting room, a kennel/treatment room, an operating theatre, a reception hall, storage and staff/WC areas.

- External signage which would replace existing signage.

3.0 Planning Authority Decision

3.1. Decision

The P.A. decided to grant planning permission on 23rd April 2016 subject to one standard type condition requiring adherence to plans and particulars.

3.2. Planning Authority Reports

The Area Planner considered that the proposed change of use is compliant with the Gorey LAP which seeks to expand the commercial service available within the town. It was also noted that no levies were applicable in this case.

The Area Planner carried out an Appropriate Assessment Screening and noted that the site is located within 15km of one SPA, Cahore Marshes SPA and 3 no. cSACs, namely, Kilpatrick Sandhills, Slaney River Valley cSAC and Cahore Polders and Dunes cSAC. However, it was considered that no element of the proposed development is likely to give rise to impacts on the Natura 2000 network.

3.3. Other Technical Reports

The Access Officer advised that a Disability Access Certificate is required for the proposed works. General advice was also given regarding the approach and access to the building, circulation within the building and use of facilities.

3.4. Third Party Observations

There was one observation from the third party appellant. The issues raised are similar to those contained in grounds of appeal and mainly related to firstly, the view that the proposed use is incompatible with the purpose and definition of a retail park and secondly, concern regarding the potential conflict between animals visiting the clinic and customers visiting the retail park, in terms of noise, storage of medicines and waste management issues.

4.0 Planning History

- 4.1. **PA Reg. Ref. 20044277** – parent permission for retail park – permission was granted in June 2005 for a 2-storey retail and office development (2,681m²). The proposed floor space comprised a supermarket, 3 no. retail units, a coffee shop and a crèche. However, the office element was omitted in a further information submission. It was also proposed to provide 104 parking spaces to serve the development. It is noted from the planning reports that the site had previously been used as a hardware store and was zoned R3 Residential at the time of the application. Please note however that the drawings submitted by the P.A. in respect of this history file are not the permitted drawings (May 2005), but those submitted with the application (Nov 2004).
- 4.2. Reference has been made to various precedents. However it is noted that these all relate to permissions granted for changes of use in similar circumstances but outside the jurisdiction of the planning authority. These will be referred to in the assessment section of this report.

5.0 Policy Context

5.1 Wexford County Development Plan 2013-2019

Chapter 3 sets out the core strategy. It is noted that the SERPGs designated Gorey as one of three 'Larger towns', (3.4.6), the roles for which are either as a target for growth or more measured growth to allow for retail, social, community development to catch up with recent residential development. Gorey falls into the latter category (page 62), whereby the focus is on facilitating further development of physical and social infrastructure. Chapter 6 sets out the strategy for retail development for the county (6.4.11) and the revised Retail Strategy is contained in Volume 4 of the CDP. Extracts are attached to this report.

5.2 Gorey Town and Environs Local Area Plan 2010

The site is zoned CM Commercial and Mixed Uses and is located within Area 3 of the Masterplan. The Zoning objective for Commercial and Mixed Use is "to provide for

commercial and office developments”, (Section 4.3). It is noted that there are no use categories relating to Veterinary Clinics. However, Health Centres are Open for Consideration in this zone. Comparison retailing uses are Not Normally Permitted.

Section 5.3 sets out the policies regarding retail and commercial development. Objective RC1 seeks to encourage development of infill sites and backlands within the town centre and adjoining area as locations for retail, commercial and residential uses, having regard to the surrounding building uses in the area. Section 5.10 sets out the policies in relation to the Town Centre and Section 5.11 sets out the policies relating to transport, infrastructure and parking.

6.0 Grounds of Appeal

6.1 The grounds of appeal can be summarised as follows:

1. ***Incompatible land use*** – The proposed use is inconsistent with the definition and purpose of a retail park or retail warehousing, for which planning permission was granted in 2005.
2. ***Reduction in the overall retail capacity of Gorey*** – reference is made to the County Retail Strategy which had identified vacancies in the Knockmullen Retail Park and had stated that these represented 4% of the vacancies within Gorey at the time of the survey. Given that there are no further lands zoned for retail purposes within the town, and specifically for bulky goods, the appellant considers that any existing lands zoned for these purposes should be retained as such in order to facilitate growth.
3. ***Conflict between shoppers and clients of the clinic*** – concern was expressed that shoppers could potentially be intimidated by dogs and that the amenity of the area would be affected by noise from barking dogs, dog fouling, storage of hazardous material etc. this was considered to be problematic due to the location of the retail unit in the middle of a row of units and given that the centre operates on a shared parking basis.

4. **Disposal of bio-waste and drug storage** – the appellant expressed concern regarding the lack of supporting information regarding suitability of the proposed building for use as a veterinary clinic. The information identified as lacking included details of safe/secure storage of syringes, drugs, gas containers (anaesthetic); details regarding the keeping of animals overnight at the premises; details regarding the disposal of hazardous (bio) waste; and an assessment of the potential noise issues relating to barking dogs etc.

6.2 Planning Authority Response

The P.A. responded to the grounds of appeal on 15th June 2016 as follows:

- The use of a vacant bulky goods retail unit for a veterinarian surgery does not conflict with the Gorey Town and Environs Local Area Plan.
- The loss of bulky goods retail outside of the shopping core area would not have any impact of significance.

6.3 First Party Response

Incompatible land use – the proposed use is compatible with the zoning (CM), and retail warehousing/bulky retail is not permitted in this zone. There is a separate zone for Retail Park in the LAP. It is submitted that the term ‘Retail Park’ in this instance is merely a marketing tool and has no planning basis. It is pointed out that Knockmullen Retail Park has a number of retail units that have been vacant for a number of years. It is further submitted that the zoning at the time that the parent permission was granted was Residential and that there was never any intention for the centre to be used as a bulky goods retail park. It is reiterated that the proposed use is an appropriate use within the centre and within this zone.

Retail capacity of Gorey – although the proposed use is primarily as a veterinary clinic, it does include a retail element, i.e. the sale of pet food, pet medicine etc. The unit is approx. 200sq.m in area, and does not therefore represent a significant amount of retail floor space in any case.

Conflict between shoppers and clients – it is submitted that the clinic is a small one and would be operated on the basis of appointments, which means that the level of activity would be consistent with that of units in the centre.

Disposal of bio-waste and storage of medicines – the applicant is a long established vet practice which operates to a very high standard and will conform to VCI Practice Accreditation Standards. All medicines, medical equipment and bio/hazardous waste will be stored in accordance with the relevant VCI Practice Accreditation standards. The average length of stay would be 15 minutes and as such, the number of animals on the premises at any one time would not be excessive. Any animals requiring overnight care will be referred to the Brayvet clinic in Bray. The building is designed to contain any expected noise from animal kennels.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Retail policy and guidance
- Impact on amenity and adjoining properties
- Appropriate Assessment

7.1 Change of use in principle

7.1.1 The site is located at the edge of the town centre, but is separated from the existing retail area by the mainline railway line. The commercial centre within which the unit is sited was permitted as part of a proposal for a mixed use development, which was originally intended as a neighbourhood shopping centre. The proposed retail element (as originally submitted to the P.A. in 2004) had included a supermarket, 3 no. retail units, a coffee shop and a crèche with a substantial office element on the first floor

above the retail units. However, the P.A. considered that whilst convenience retail was open for consideration at the time (residentially zoned lands), it was considered that the site was not suitable as a neighbourhood centre. A FI request had, therefore, sought the reduction in the amount of retail space and the omission of the office floor space. The revised drawings, (which are not included in the P.A. submission in respect of the current application/appeal, but are available on the P.A.'s website), show the revised layout, generally as constructed.

7.1.2 The permitted development includes 4 no. retail units, only one of which is a large retail warehouse format, with mezzanine levels labelled as 'Administration'. Thus although the centre may be named as Knockmullen Retail Park, the development, either as permitted or as currently used, does not fall within the description of a 'Retail Park' as set out in the Retail Planning Guidelines 2014, which is "A single development of at least three retail warehouses with associated car parking". A Retail Warehouse is defined as "A large single-level store specialising in the sale of bulky household goods such as carpets, furniture and electrical goods, and bulky DIY items, catering for mainly car-borne customers." It is considered, therefore, that the current or permitted use is as a retail unit (vacant) within a commercial centre, in an edge of centre location.

7.1.3 The site and overall retail development are zoned "Commercial & Mixed Uses", the zoning objective for which is to provide for commercial and office developments. I note that comparison retailing is Not Normally Permitted in this zone. A Veterinary clinic is not listed as a use in the land-use matrix at Fig. 4.1 of the Gorey LAP. Neither is it mentioned in the Retail Planning Guidelines 2014. It can, therefore, be considered as a "sui generis" use in this instance. However, it is akin to a health centre, and it is noted that this use is Open for Consideration in this zone. It is further noted that the zoning map provides for a range of retail type developments including a zone for Retail Parks. The purpose of that zoning is to provide retail parks for comparison bulky goods. Thus I would agree with the views of the applicant and of the P.A. that the proposed use is not inconsistent with the zoning for the site.

7.1.4 The Retail Strategy contained in Volume 4 of the Wexford County Development Plan includes a Health Check Assessment of Gorey. It is noted that in spite of the period of economic decline, Gorey has maintained a thriving, vibrant and vital town centre with low vacancy rates. There is a diverse range of retail outlets within the town including a substantial level of bulky goods retailing, which is located primarily along the new bypass road linking the R741 with the western end of McCurtain Street. Table 45 of the Retail Strategy indicated that the proportion of bulky goods (23.9%) retailing was quite strong relative to convenience (25%) and comparison (35.9%) retailing. It should be noted that this did not include the new Tesco store which has since been constructed at the western end of McCurtain Street and which includes a significant comparison retail element. It was also recorded at the time of the health check survey that Knockmullen RP accounted for 4% of the vacancies in the town.

7.1.5 It is noted that although situated in an edge of centre location, the Knockmullen Retail Park is located just outside of the area encompassing the primary and secondary shopping streets, as well as being physically separate from the concentration of retail warehouses that stretch along the road to the south of the main shopping area. The retail park is located on a busy approach road to the town but is on the far side of a busy roundabout and across the railway line, and as such is not as easily reached by foot as the retail warehouses to the northwest. I note that the Retail Planning Guidelines (4.7) indicate that edge-of-centre retailing sites should not only be located adjacent to the boundary of the central area, but consideration should also be given to the function and character of the site and the ease of movement between it and the town centre. The retail policies and objectives of the Gorey LAP (RC1, RC2, RC3) seek to prevent the loss of retail units in the town centre and on the Main Street/principal shopping streets, whilst encouraging development of infill sites and backlands. Thus it would be reasonable to conclude that the loss of a retail unit in this commercial centre, which is relatively low key and physically separate from the main retailing areas, would be unlikely to undermine the overall aims of the retail strategy and LAP retail policies for the area.

7.1.6 The Board has decided to grant permission for similar proposals in other parts of the country. Reference is made in the submissions to PL61.228358, which involved a change of use of a retail unit to a vet clinic in Briarhill Business Park in Galway, and to PL29N.244393, which involved a change of use from retail unit to veterinary surgery at Coolock Retail Park, Malahide Road in Dublin. In each case the Board considered that the proposed change of use would not have been inconsistent with the business/retail park zoning. In the case of 244393, it was also concluded that the proposed use would not undermine the retail park function to any significant degree and would not seriously injure the amenities of the area. I also note that the Inspector had observed that “the nature of veterinary practices is such that they are not a ‘best fit’ for any one location” and that it was accepted that “most of the clients to a veterinary practice would travel by car...” The first party submission in response to the appeal also made reference to similar decisions made by Dun Laoghaire Rathdown Co. Co. (D12A0343), where permission was granted for a change of use from retail to veterinary clinic at Apollo Business Park in Dundrum and by Fingal Co. Co. (F15A/0386) for change of use from retail to veterinary clinic at Skerries Point Shopping Centre.

7.1.7 Having regard to the retail policies and objectives for the area, including the Retail Strategy for Co. Wexford and to the zoning of the site for Commercial and Mixed Uses, to the current and permitted use of the site and surrounding units and to the location of the site in an established commercial centre at the edge of the town centre, with good accessibility and off-street parking available, it is considered that the proposed use would be appropriate at this location and would not undermine either the function of the existing retail park or the retail strategy for the area.

7.2 Impact on amenity of area

7.2.1 In response to the concerns regarding potential noise emissions from the clinic (barking dogs), dog fouling, storage of hazardous material (including drugs, syringes etc.) and of hazardous waste, the first party has advised as follows:

- Consultation by appointment only, with just one consulting room proposed and appointments to be approx. 15 minutes duration;
- Average length of hospitalisation for animals at the clinic will be 6 hours. Most animals will return home immediately after consultation.
- Any animals requiring overnight stays will be referred to the applicant's main vet hospital in Bray. Similarly, any animals requiring major surgical intervention, X-rays, ultrasound, endoscopy etc. will be conducted at the Bray facility.
- The kennel area will be in a heavy block wall room.
- The applicant is fully aware of its obligations for the operation of a safe and environmentally friendly clinic and intends to comply with the relevant legislation. It is also pointed out that Brayvet has operated a successful vet clinic in Bray for over 20 years. Details of the means of storage and disposal of clinical equipment/waste are provided in the submission dated 14/06/16.

7.2.2 On the basis of the information provided by the applicant, it is considered that the proposed use is likely to be operated at a level of intensity that would be similar to that of a retail unit or possibly lower. It is also noted that the unit is well removed from residential properties. Notwithstanding this, should the Board be minded to grant permission, it is considered that conditions should be attached to any such permission which would prohibit the overnight/weekend boarding of animals. In addition, conditions should be attached with the aim of ensuring that the management of waste is adequately catered for and that litter in the vicinity of the premises is appropriately controlled. It is considered that subject to such conditions, the proposed development would not seriously injure the amenities of the area.

7.3 Appropriate Assessment

7.3.1 There are four European sites within 15km of the development site. These are Cahore Marshes SPA (004143); Slaney River Valley cSAC (00781), Cahore Polders and Dunes cSAC (00700) and Kilpatrick Sandhills cSAC (001742). It is estimated

that each of these Natura sites, apart from Slaney River Valley cSAC, is located at least 10-12km from the site, and the Slaney River Valley cSAC is located approx. 4-5km away. In light of the distances involved and given that the proposed development does not include any building works but involves a change of use of an existing unit, (which is located in an established commercial park within a built-up urban area with established infrastructure and services), it is considered that it is unlikely that any significant effects on the Conservation Objectives of any of these European sites will arise.

- 7.3.2 Having regard to the nature and scale of the proposed development and the nature of the receiving environment as described above, and to 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 or projects, on a European site.

8.0 Recommendation

- 8.1 I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and considerations

Having regard to the provisions of the Wexford County Development Plan 2013-2019 and the Wexford Retail Strategy contained therein, and of the Gorey Local Area Plan 2010-2016, to the location, scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location, would not undermine either the function of the retail park or the retail strategy for the area to any significant degree and would not seriously injure the amenities of the area. The proposed development

would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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. The veterinary clinic shall not be used for the boarding of animals overnight or over the weekend.

Reason: In the interest of the amenities of the area.

3. Details of all external signage shall be submitted to the planning authority prior to commencement of development on the site.

Reason: In the interests of the amenities of the area and visual amenity.

4. A plan containing details for the management of waste within the development, including the provision of facilities for its storage, separation and collection shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: to provide for the appropriate management of waste, in the interest of protecting the environment.

5. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of the amenities of the area.

Mary Kennelly
Senior Planning Inspector

30th August 2016