



An  
Bord  
Pleanála

## Inspector's Report PL06F.247873

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<b>Development</b>	Change of use of 55 sq.m two-storey office building to dental surgery.
<b>Location</b>	Rear of 7 Castle Terrace (Protected Structure), Malahide, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F16A/0492
<b>Applicant(s)</b>	M. Concanon
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Niall Gough
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28 April 2017
<b>Inspector</b>	Una Crosse

## **1.0 Site Location and Description**

- 1.1. The site, which has a stated area of 0.01 hectares, is located to the rear of No. 7 Castle Terrace and is accessed from Saint Margaret's Road which links the Dublin Road and Saint Margaret's Avenue to the south. The structure is two-storeys in height and includes an entrance door onto St. Margaret's Road. The appeal structure is attached to a 3 storey structure comprising No. 7 Castle Terrace which addresses both Dublin Road and St Margaret's Road with an entrance into the property from St. Margaret's Road into an existing dental surgery. There is a small yard area to the south of the building which is not within the application area.

## **2.0 Proposed Development**

- 2.1. The proposal seeks to change the use of both floors of this two-storey structure from office use to use as a dental surgery. The ground floor is proposed as a waiting room and includes an accessible toilet and a stair to the first floor where two surgery rooms are proposed an office/store. The entrance to the facility is proposed from St. Margaret's Road.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission was granted subject to 4 conditions which include:

C2 – signage requirements – details to be agreed with the PA with reference to Malahide Historic Core ACA and no adhesive material to be affixed to any glazing;

C3 – details of how waste will be managed/stored;

C4 – deliveries not permitted between 2200 and 0700;

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the Planning Officer can be summarised as follows:

- A condition is proposed regarding signage to address issue of possible confusion of uses;
- Proposed use acceptable notwithstanding concentration of dental uses in the area and noted part of unit previously used as a dental surgery and reverting to use not anticipated to generate adverse amenity effects;
- Waste management can be addressed by condition;
- Concerns raised regarding conservation addressed by condition re. signage;
- Matters raised by Conservation Dept. regarding works carried out to windows not detailed in previous application considered to be outside scope of application;
- Shortfall of parking granted for the office use with requirement for proposal increased by one space but given location of site close to public transport and parking in vicinity considered parking demand catered for off-site.

### 3.2.2. Other Technical Reports

Transportation Section – increase in parking demand of one space from the 2 required for the office use with none provided; Given the on-street parking available and public car park the Transportation Section satisfied that the proposed can be catered for.

Conservation – site attached to rear of a protected structure (RPS No. 397) and located within the ACA. The structure is a later attachment to the original terraced house. Signage important consideration given need to distinguish existing and proposed dental practices. Concerns raised about the works carried out to the windows which was not detailed in previous applicant with existing sash windows replaced with new inappropriate windows with lines scored on the glass to give the illusion of the sash profile and request that these unauthorised works be rectified.

Water Services – no objection

Irish Water – No objection

### 3.3. Prescribed Bodies

None

### **3.4. Third Party Observations**

As per grounds of appeal below with additional issues raised about wheelchair accessibility, and requirement for sterilisation and x-ray room.

## **4.0 Planning History**

- 4.1. Ref. Ref. F14A/0137 – permission granted for change of use of 55 sq.m dental surgery/residential building to office use with new entrance door from St. Margaret's Road.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The site is located within the 'TC' zoning (town and district centre) the object of which is to 'protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities'
- 5.1.2. No. 7 Castle Terrace is a Protected Structure (RPS. No. 397) as are the other 6 structures forming Castle Terrace. The site is located within the Malahide Historic Core Architectural Conservation Area (ACA).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are summarised as follows:

- Not objecting to a new dental surgery;
- Objection is to use of part of property owned by appellant using access over appellant's property to operate;
- Previous dental surgery operated in the building but operated as 7 Castle Terrace with shared access as part of a partnership arrangement which was terminated with change of use sought and unit redeveloped;

- Proposal while having access to the street also has access over the appellant property with insurance issues;
- Applicant has no area to store waste as bins on appellant's property;
- Use of Castle Terrace address will create confusion;
- Parking has not been addressed and is a huge problem with ongoing problems keeping the 7 spaces to rear of 7 Castle Terrace clear for staff and patients;
- Applicant has failed to comply with requirement of previous permission with windows changed on structure which is protected with Conservation Officer informed;
- Does not appear to be sufficient space for proposal;

## 6.2. Applicant Response

The applicant's response to the appeal is summarised as follows:

- Applicant has put property up for sale and is in negotiations with a dentist;
- Proposal is for a change of use with no construction work proposed to the structure;
- Appellants operates a dental practice at 7 Castle Terrace;
- Not uncommon for similar businesses to be in the same premises;
- Proposal is consistent with the zoning objective and considered acceptable by the PA;
- Part of building previously used as a dental surgery;
- Nature of waste management within the structure the same no matter what use is undertaken with no objection from appellant on previous application;
- Dental practices have clinical waste which is collected by certified waste operators and remainder of waste can be collected in waste bags both of which can be collected at times to be agreed with FCC and need not involve the yard owned by the appellant;

- PA included a condition regarding signage with buildings easily distinguished given height difference;
- Proposed dental practice based on secondary care specialist treatment to patients referred by other dentists;
- Appellants parking spaces have been protected by bollards and chains to prevent unauthorised parking with a sign on the wall advising of private parking;
- Applicant prospective dental operator has stated that staff and patients will be instructed not to park in or in front of the appellant's spaces with attendance by appointment only with only two surgeries;
- Transportation Department satisfied that parking demand can be catered for offsite;
- Issue of design of the sash windows is noted and can be resolved with the PA as required;
- Structure is sufficient in size for intended use;

### 6.3. **Planning Authority Response**

The PA response is summarised as follows:

- Remains of opinion proposed is acceptable on site zoned 'TC' and will not detract from special physical and social character of Malahide village subject to compliance with conditions;

### 6.4. **Observations**

No observers on file.

## 7.0 **Assessment**

### 7.1. Principle of Proposal

The proposal to change the use of the structure to provide for a dental surgery complies with the 'TC' zoning objective pertaining on the site. The proliferation of

dental surgeries in the area is outlined however, there is no provision within the Development Plan which provides for a saturation point of any particular use in this zone. I would also note that this unit was previously used, in part, as a dental surgery therefore the use was a previously established use on the site. In respect of the potential confusion with other proximate dental surgeries this is a matter which can be addressed by appropriate signage as set out in the PA's notification. There is also concern expressed that the unit is not of sufficient scale for the use intended. I do not consider that sufficient evidence has been provided to support the contention that permission should not be granted for the use on this basis. In this regard I consider that the use proposed is acceptable in principle.

## 7.2. Parking

There is concern expressed by the appellant regarding the absence of any parking provision related to the proposal. Given the location of the site within the town centre, I consider that it is acceptable to facilitate development within the structure in the absence of parking. The site is very proximate to the nearby Bridgefield car park. I note the parking spaces associated with the appellant's property and business which are located to the south of the appeal site. While I acknowledge that the spaces could be mistakenly used by persons accessing the proposed dental surgery, they could also be used by any person accessing the town centre. Furthermore, any potential clients could be informed on making an appointment of the requirement to seek parking in a location other than the adjoining spaces. In this regard I do not consider that parking is a material issue in this regard.

## 7.3. Signage

The PA and Conservation Officer consider that the provision of appropriate signage would assist in preventing confusion between dental surgeries located within No. 7 Castle Terrace and the proposed site. I note that the adjoining dental surgery had a free standing sign located on the footpath adjacent to the door into the facility with a plate on the wall adjacent to the door indicating the name of the Dental Surgeon. The Conservation Officer raises some concern as to the impact of such a sign on the structure given its location within the ACA. However, I would note that the ACA includes guidelines on the provision of signage and the inclusion of a condition

requiring the written agreement of the PA regarding the design of same would provide that the most appropriate solution would be found.

#### 7.4. Waste Management

Concern is expressed at the absence of details in relation to waste management and in particular the absence of a waste storage area. In their response to the appeal, the applicants outline the three types of waste likely to arise as a result of the proposed use. The clinical waste associated with the use is stated to be collected by certified waste disposal companies directly from the surgery and therefore does not require storage in an outdoor area. General waste is proposed to be collected in waste bags and collected by a commercial waste management collection provider. Finally, waste from sanitary bins is collected directly from the unit by a certified operator. In this regard I do not consider that the facility requires a specific waste storage area external to the property and a condition can be attached, if the Board are minded to grant permission, seeking the written agreement of the PA to a proposed waste management plan for the facility.

#### 7.5. Other Matters

There is some discussion about the replacement of the windows in the structure following the granting of permission for change of use in 2014. While I note the concerns of the Conservation Officer and consider that the current windows may be inappropriate for the structure in question, given that the proposal relates to the use of the structure rather than works, it is not considered appropriate for the Board to impose a condition regarding the windows. However, while the Board does not have an enforcement role, the PA are the appropriate authority to seek that the matter is addressed and rectified as necessary.

#### 7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, I am satisfied that 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 permission is granted subject to the conditions outlined below.

## 9.0 Reasons and Considerations

Having regard to the location of the site within the town centre of Malahide, the zoning of same and the uses in the vicinity of the site, it is considered that the proposed development would not seriously injure the character of the protected structure or adjoining structures, or the architectural character of the area 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.

## 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. Prior to the commencement of development details of the proposed signage for the use proposed shall be submitted for the written agreement of the Planning Authority and shall have regard to the Malahide Historic Core Architectural Conservation Area Statement of Character.

**Reason:** In the interest of visual amenity and orderly development.

3. A plan containing details of the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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Una Crosse  
Senior Planning Inspector

April 2017