



An
Bord
Pleanála

Inspector's Report PL03.248090.

Development	Change of use from office to medical centre and retail use of existing commercial building and associated works.
Location	Causeway Quarter, Francis St, Ennis Co. Clare.
Planning Authority	Clare Co Council.
Planning Authority Reg. Ref.	16/920.
Applicant(s)	Centric Health Primary Care Ltd.
Type of Application	Permission.
Planning Authority Decision	To Grant Permission.
Type of Appeal	First Party.
Appellant(s)	Centric Health Primary Care Ltd.
Observer(s)	None.
Date of Site Inspection	May 9 th , 2017.
Inspector	Breda Gannon.

1.0 Site Location and Description

- 1.1. The site is located at Francis Street, to the north east of the town centre in Ennis. Co Clare. It accommodates a large two-storey building which faces onto Francis Street. The building which displays a 'To Let' sign would appear to be currently vacant. To the rear there is a private car park which appears to be shared with Clare FM, the adjacent building to the west. The access to the car park runs between the two buildings. Further to the rear there is pedestrian access to a large carpark associated with the Glor theatre company.
- 1.2. The area is one of mixed uses. To the east lies Ennis Shopping Centre, with Tesco and Penny's as anchor tenants. On the opposite side of the road there is a terrace of buildings which accommodate retail and residential uses. To the east of the terrace there are GAA grounds (Pairc Chiosog Inis) and Aldi supermarket. Residential uses become more prevalent westwards towards the town centre.

2.0 Proposed Development

- 2.1. The proposal as described in the public notices submitted with the application seeks permission for the following:

'The change of use from office use to medical centre and retail use on the ground floor of an existing two-storey commercial building, elevational changes, signage, the construction of new ramped/stepped access routes, adjustment of car parking and associated works on the site'.

A pharmacy will be provided at the front of the building and the remainder of the ground floor will accommodate the medical centre including 13 No. consultant rooms 2 no. dentistry rooms and ancillary facilities associated with the operation of the medical centre, including reception, waiting areas, toilet facilities, stores etc.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the development subject to 7. no conditions. The following conditions are of note:

Condition No.3 – The 28 no. car parking facilities shown on site layout plan no. 3380-P-01 received on 28th November 2016 shall be reserved solely for the permitted development and shall include disabled parking spaces.

Condition No. 7 – Requires that a contribution of €61,152 be paid in respect of car parking facilities benefiting development in the area of the planning authority, in accordance with development contribution scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer's** report notes that the site is zoned 'Mixed Use' and that there is no objection in principle to the proposed change of use from office use to a medical centre. There is no objection to the development on the grounds of visual amenity and it is not considered that the proposal will result in adverse impact on the residences opposite the site, given the general mix of commercial uses nearby. It is noted that the site is located within Flood Zones A & B, and that the medical centre is not a more vulnerable use than office space and accordingly the justification test is not considered warranted.

It is considered that the parking demand associated with the medical centre will be greater than its current office use. Whilst there is paid parking in the vicinity at shopping facilities, at Glor and on Francis Street, this does not obviate the need for the developer to pay a contribution towards parking, as other businesses have done where a change of use results in a greater demand for car parking.

3.2.2. Other Technical Reports

None.

4.0 Planning History

The planning officer's report documents the following planning history;

11/21025 – Permission granted for the change of use from office to retail use on the ground floor of the building on the site and elevational changes, signage etc on 30/5/11.

10/21038 – Permission granted for alterations and to extend the Sherwood Inn at Unit 7 & 8 into Unit 6 at Tesco Shopping Centre and to change the use of Unit 6 from shop use to restaurant.

10/20176 – Permission granted for alterations and to extend the Sherwood Inn at Unit 7 & 8 into Unit 6 at Tesco Shopping Centre and to change the use of Unit 6 from shop use to restaurant.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the **Clare County Development Plan 2017-2023**, which came into effect on January 25th, 2017.

The development plan incorporates the Ennis Town Council area which previously had its own development plan. The plan contains settlement plans for all the towns and villages in the county. Volume 3(a) contains the written statement and maps for the settlements and clusters within the Ennis Municipal District.

The site is located within an area zoned 'Mixed-Use' and is included within Opportunity Site OP 12- Francis Street and Causeway.

Car parking standards are set out in Section A1.9.3 of Appendix 1 (Development Management Guidelines) of the plan.

Relevant section of the plan are appended to the back of the report for the information of the Board.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is in respect of Condition No 7, relating to a financial contribution for car parking imposed by the planning authority;

The grounds of appeal may be summarised as follows:

- The application was supported by documentation calculating the car parking requirements for the proposed development (Fig 2). Under the provisions of the Ennis and Environs Development Plan 2014, there is a requirement for 28 no. spaces to serve the proposed development. There are 28 no. spaces available on the site and accordingly there is no additional liability required in this regard.
- There is significant parking on Francis Street and at a public car park to the south on the 'Glor' grounds which has pedestrian access directly to the site.
- The development plans in force at the time of the making of the application guided the calculation in relation to car parking i.e. the Clare County Development Plan 2011-2017 and the Ennis and Environs Development Plan 2008-2014 (Fig 3 & 4).
- Following the planning authority's decision, the applicant was advised that the contribution was calculated on the basis of a shortfall in car parking @ €2548 per car parking space as per the Ennis Town Council General Development Contribution Scheme mid 2013-2017. The applicant was referred to the planning officer's report which was completed on January 20th, 2017.
- The calculations of 2 no. spaces per consulting room plus 1no. space per doctor/consultant and 1 no. space per 3 nursing and ancillary staff are from the Clare County Development Plan 2017-2023, which came into effect on January 25th, 2017 (Fig 5). The new parking requirements should not apply to an application made on November 28th, 2016.
- With regard to the calculations outlined in the Planning Officer's report, based on the new Clare County Development Plan 2017-2023, reference is made to

'1 nurse per 3 doctors plus one dental assistant per dentist'. The application proposed 13 no. consultant rooms and 2 no dentistry rooms. As a nurse or dental assistant would require their own space, it is not correct to add on an extra 1 nurse per 3 doctors and 1 dental assistant per dentist.

- In order to comply with TGD Part M access to the existing building, six parking spaces on the site were lost in the provisions of accessible ramps and steps at the rear entrance.

6.2. Planning Authority Response

The Planning Authority's response of 22/3/17 refers to the planning officer's report, noting that the application of the General Development Contribution Scheme mid 2013-2017, in the case of change of use is set out in detail along with the calculations of the contribution. The planning authority considered that the proposal would involve a significant intensification of the use of the site and that the contribution for shortfall in parking is therefore required.

- 6.2.1. In response to the Board's Section 131 notice, the planning authority noted that a new development contribution scheme was adopted on 24th April 2017 and that the contribution for car parking is now €1000, as opposed to €2548.00

6.3. Further Responses

The applicant's response to the Board's Section 131 notice states that it is accepted that the new development contribution is €1000 per space. The main issue relates to the method of calculation of car parking numbers, which should be in accordance with the previous development plan, which was in force at the time of the application. The planning standards applicable at the time of the application should apply as the new standards could not be foreseen. The planner's report dated January 20th used the new standards which were not enacted at that time.

The car parking spaces are sufficient and no additional contribution should apply.

7.0 Assessment

- 7.1. This is a First Party appeal under Section 48 (10) (b) of the Planning and Development Act, 2000, as amended. The applicant considers that the terms of the development contribution scheme have not been properly applied. As the appeal is in respect of a financial contribution only, the Board is restricted to considering this condition alone and cannot consider the proposed development *de novo*. I have therefore confined my assessment to the condition that has been appealed (Condition No 7).
- 7.2. It is contended by the appellant that the 28 no. car parking spaces available on site is adequate to serve the proposed development and that this level of provision accords with the applicable standards set out in the development plan, which was in operation at the time the application was made to the planning authority (28th November 2016). I would point out to the Board that in the interim, a new development plan has come into effect (25th January, 2017), which increased the car parking requirements for certain developments including medical centres, offices etc. A new development contribution scheme was also adopted on April 24th, 2017, which is applicable to all decisions made to grant permission on/after that date. It reduces the level of contribution for car parking to €1000 per space. It is these two recently adopted documents that the Board must have regard in determining this appeal.
- 7.3. Under the provisions of the Development Contribution Scheme 2017-2023 contributions are payable in respect of car parking where the developer is unable to meet the requirements set out in the development plan in force at the date of decision.

The current proposal is for a change of the ground floor only of the building (642m²). Under the provisions of the recently adopted development plan the following car parking standards apply;

Local shop	2 spaces per 100m ²
Medical/Dental Clinic	2 spaces per consulting room +1 per doctors/consultant +1 per 3 nursing and ancillary staff

Offices	2 spaces per 100m2 +10% of staff parking for visitors.
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7.4. The proposed development, which will include a pharmacy and 15 no. consultant rooms (13 no. doctors and 2 no. dentists) would generate a requirement for 52 no. spaces calculated as follows;

Pharmacy 132 m2 @ 2 spaces per 100m2 =2.64	=3 spaces
Medical centre @ 2 spaces per consulting room (15 rooms)	=30 spaces
1 space per doctor (13 no. doctors)	=13 spaces
1 nurse per 3 doctors (4.3) and 1 dental assistant per dentist (2)	= 6 spaces
Total	= 52 spaces

7.5. With regard to the above, the Board will note that the applicant takes issue with the parking allocation for nurses/ancillary staff. The planning authority assumes 1 no. nurse per 3 no. doctors (4.3) and 1 no. dental assistant per dentist (2), which would not appear unreasonable. This would generate a requirement for 6 no. spaces as detailed above. Whilst the applicant has raised issues with the planning authority's assumptions in this regard, its rebuttal does not offer any counter argument, despite it purporting to be a *'well established provider of primary care facilities throughout the country'*.

7.6. The proposal involves a change of use. Under the provisions of the scheme a contribution is calculated based on the difference between the existing use if it were new and the contribution arising from the proposed use (where greater).

7.7. The existing office use on the ground floor, if it were new, would generate a requirement for 14 spaces (642 m2 @ 2 spaces per 100m2 + 10%). The proposed change of use generates a requirement for 52 spaces (as set out above). Therefore, in accordance with the provisions of the scheme, the proposed change of use would generate a requirement for 38 spaces (52-14). The first floor remains as existing in office use. It generates a requirement for 16 spaces (794m2 @ 2 spaces per 100 =16). The total requirement for the building is therefore 54 spaces (38 +16). The site accommodates 28 spaces resulting in a shortfall of 26 spaces (54-28).

- 7.8. Under the provisions of the recently adopted scheme, the contribution payable for car parking is €1000 per space. The contribution payable by the developer is therefore €26,000 (26 spaces @€1000). This is payable regardless of the availability public car parking in the vicinity of the site, including pay and display on-street parking, the Glor car park to the rear and at adjacent shopping centres.
- 7.9. I consider that the planning authority correctly applied the terms of the scheme in operation at the time of the decision, but that an amendment is required to reflect the provisions of the recently adopted scheme, which reduces the contribution for car parking.

8.0 Conclusion

I conclude that the terms of the scheme have been properly applied in respect of condition No. 7, but that cognisance must be taken of the recently adopted scheme which reduces the contribution payable for car parking for decisions made since its adoption. I recommend that the Board should direct the planning authority under subsection 10(c) of section 48 of the Planning and Development Act, 2000, to AMEND Condition No 7 for the following reasons and considerations.

9.0 Reasons and Considerations

It is considered that the terms of the Development Contribution Scheme have been properly applied in terms of the financial contribution set out in Condition No 7. However, it is considered that an amendment is required to reflect the terms of the recently adopted Clare County Council Development Contribution Scheme which applies to all decisions to grant permission from the date of coming into force of the Scheme.

Condition No 7 to read as follows:

The developer shall pay a financial contribution of €26,000 (twenty-six thousand euro) 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. 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act, 2000 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.

Breda Gannon
Senior Planning Inspector

31st May, 2017