



An
Bord
Pleanála

Inspector's Report ABP-301822-18

Development	Change of use of existing dwelling attached to existing dental practice to speciality medical centre.
Location	Castle Road Surgery, Castle Gardens, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	17792
Applicant(s)	Dr. Tadhg Lynch
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Dr. Tadhg Lynch
Date of Site Inspection	26 th July 2018
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.06 hectares, is located just south of Kilkenny City centre at Castle Gardens. The appeal site is located off Castle Gardens but has road frontage along the Bennettsbridge Road. The site is occupied by a two-storey structure, which includes a dwelling and a dental practice. There is existing vehicular entrance off Castle Gardens and a pedestrian entrance to the dental practice off the Bennettsbridge Road. Adjoining properties include a two-storey detached dwelling to the south west, a two-storey detached dwelling on the opposite side of the road to the north west and a two-storey detached dwelling to the south east.

2.0 Proposed Development

- 2.1. Permission is sought for the change of use of an existing 3 bedroom self-contained dwelling attached to existing dental practice to a self-contained specialist medical centre providing consultation and treatment services and associated uses and works. The structure subject to change of use has a floor area of 198.9sqm. The appeal site is the footprint of the structure for which change of use is sought. The structure is attached to an existing dental practice and there is car parking for 6 vehicles already on the site with an existing vehicular entrance off Castle Gardens.
- 2.2. In response to further information the applicant proposed a reduced scale of development with some aspect of residential use being retained, however no revised plans were submitted to clarify such.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on one reason...

The proposed development contravenes Condition No. 1 of P.07/990111 permitted on this site, where the principle established was to maintain a residential element to this building, in lieu of the house that was permitted for demolition on this site. The

medical consultancy proposed from some rooms, on a temporary basis, does not comply with the principle of home based economic activity, due to the applicant proposing a medical use and not residing within the unit. The proposed development would therefore lead to a substantial commercial floor area, notwithstanding the proposed residential use to be retained and would be at odds with the residential character of the area and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Irish Water (05/01/18): No objection.

Road Design (31/01/18): No objection.

Planning report (31/01/18): Further information required with it noted that a residential element should be retained on site with revised proposals sought in this regard.

Planning report (16/05/18): The proposal to retain a residential use on site were noted, however it was considered that what is proposed does not meet the definition of home based economic activity and with the planning history of the site noted the fact that a residential use was central to the previous permission granted. Refusal was recommended based on the reason outlined above.

3.3. Third Party Observations

No third party observations.

4.0 Planning History

P11/990005: Permission granted for retention of gates and pedestrian archway.

P08/990136: Permission granted for variations to approved scheme under P07/111.

P07/990111: Permission granted for the demolition of an existing dwelling and construction of a two-storey dental clinic and residential unit.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Kilkenny City and Environs Development Plan 2014-2020. The site is zoned 'Existing Residential' with a stated objective 'To protect, provide and improve residential amenities.'

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been lodged by Peter Thomson Planning Solutions on behalf of the Dr. Tadhg Lynch, Brownsbarn, Thomastown, Co. Kilkenny.

- The submission outlines the appellant's background and the fact he proposes to hold patient consultations one day a week.
- It is noted that condition no. 1 of permission ref no. P07/99011 cannot pre-determine the outcome of subsequent applications or prevent them being considered on their merits.
- It is noted that the dwelling on site has never been lived in and that the condition was a result of Development Plan policy in force at the time that required that medical development was only permitted in the 'existing residential' zoning as part of a residence. It is noted that current Development Plan policy under the 2014-2020 City Development Plan does allow for a standalone medical clinic within the 'existing residential zoning' with medical centres a 'permitted use'.

- It is noted that there were no objections from local residents.
- It is noted that the proposal is in walking distances of existing dwellings.
- It is noted that the appellant/applicant had attempted to retain a residential element to the proposal in response to further information.
- It is noted that there are other standalone medical practices along the Bennettsbridge Road/Castle Road within the existing residential zoning.

6.2. Planning Authority Response

Response from Kilkenny County Council.

- The Planning Authority have no further comment to make.

7.0 Assessment

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/Development Plan policy

Condition no. 1 ref no. P07/9901

Physical impact, adjoining amenity, traffic

Appropriate Assessment

7.2 Principle of the proposed development:

- 7.2.1 The proposal is for a change of use of an existing dwelling to a medical centre. The existing dwelling is attached to a dental practice. Permission was granted for the existing development on site under ref no. P07/99011, with a dwelling demolished to make way for the current development. Condition no. 1 states the following...

1. The development shall be carried out in accordance with the plans and particulars submitted on the 24th August 2007 as revised by significant further information received by the Planning Authority on the 29th February 2008, save as amended by the conditions attached hereto.

REASON: To ensure that the development strictly accords with the permission and to ensure that effective control is maintained.

7.2.2 The permission was granted on the basis that the medical practice had a residential element attached and was not a standalone medical development within an area zoned 'existing residential'. The site is zoned 'Existing Residential' under the Kilkenny City & Environs Plan 2014-2020 with a stated objective 'To protect, provide and improve residential amenities. Medical centres are indicated as being a permitted use under this zoning objective. The appellant notes that the previous permission on site was granted under a previous Development Plan that appears to be more restrictive in the nature of uses and that a standalone medical centre is a permissible use under the current zoning policy. I would agree with this assessment and would note the current proposal is consistent with the zoning objective and therefore the principle of such is satisfactory.

7.3 Condition no. 1 ref no. P07/99011:

7.3.1 Permission was refused on basis that "the proposed development contravenes Condition No. 1 of P.07/990111 permitted on this site, where the principle established was to maintain a residential element to this building, in lieu of the house that was permitted for demolition on this site. The medical consultancy proposed for some rooms, on a temporary basis, does not comply with the principle of home based economic activity, due to the applicant proposing a medical use and not residing within the unit. The proposed development would therefore lead to a substantial commercial floor area, notwithstanding the proposed residential use to be retained and would be at odds with the residential character of the area and would be contrary to the proper planning and sustainable development of the area".

7.3.2 Condition no. 1 of permission ref no. P07/99011 does not prejudice consideration of the proposal on its merits and in the context of the proper planning and sustainable development of the area. This condition does not automatically preclude the proposed development from any consideration and the proposal should be considered on its merits, in the context of current Development Plan policy and overall impact in regard to the proper planning and sustainable development of the area.

7.4 Physical impact, adjoining amenity, traffic:

7.4.1 The proposal is purely a change of use and entails no increase in floor area or significant alterations to the physical appearance of the existing structures on site. The proposal would therefore have a limited physical impact on the amenities of adjoining properties. The principle of medical use is well established on site and does not appear to have significant or adverse impact on the amenities of the area. The proposal is an extension of such and seeks to eliminate the residential aspect on site. The applicant did propose an amended proposal that would retain some level of residential development on site, however such was not considered acceptable.

7.4.2 As noted earlier the provision of a standalone medical centre is not contrary to Development Plan zoning policy at this location and would be permitted use. The only potential impact the proposal may have is traffic impact, with the proposed medical use resulting in increased traffic generation. At present there are 6 car parking spaces on site serving the dental clinic and the existing dwelling. The existing dental clinic has two consultation rooms and one for surgery with the proposal having one consultation room and one for physiotherapy. The parking requirement for Clinics and Medical Practices under table 10.5 of the Development Plan is 3 spaces per consulting room. There is no proposal to increase parking level and it would appear that the proposed development taken in conjunction with established development on site does not provide sufficient car parking on site. I would acknowledge that the site is in close proximity/walking distance to existing residential. The site is located along Castle Gardens, which has no on street car

parking due to the width of the street and is subject to parking restrictions (no parking signs).

7.4.3 The proposal entails an increased intensity of commercial activity on the site and the provision of a medical practice in conjunction with the existing dental practice on the larger site the appeal site is part of I would have concerns that there are no proposals to provide any increased parking on site and that there is a lack of significant level of on-street parking with the road in Castle Gardens too narrow to facilitate such. In addition there is limited parking along Bennettsbridge Road with the majority of parking restricted to bus parking for a significant period of the year. I would have concerns that the intensification of commercial development would lead to overspill of parking onto Castle Gardens, which is too narrow to facilitate such and would potentially cause a traffic hazard due to obstruction of other road users.

7.5 Appropriate Assessment:

7.5.1 Having regard to the nature and scale of the proposed development and its 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 refusal based on the following reason.

9.0 **Reasons and Considerations**

1. The proposed development entails an intensification of commercial use at this location with no proposals to increase the level of parking provided for the proposed medical practice taken in conjunction with the established dental practice on site. The proposal is deficient in the level of parking required under Development Plan policy (Table 10.5) and having regard to the insufficient level of parking there is potential for overspill of parking onto the public road (Castle Gardens). Having

regard to the restrictive width of such, the proposal would result in a traffic hazard due to obstruction of other road users and would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

11th September 2018