



An
Bord
Pleanála

Inspector's Report ABP.305083-19

Development	Retain existing signage to pharmacy
Location	CarePlus Park Road Pharmacy, Countess Centre, Park Road, Killarney
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	19/508
Applicant(s)	Park Road Pharmacy Ltd.
Type of Application	Planning permission
Planning Authority Decision	Refuse permission
Type of Appeal	First party
Appellant(s)	Park Road Pharmacy Ltd.
Observer(s)	None
Date of Site Inspection	22 nd October 2019

1.0 Site Location and Description

- 1.1.** The site is located on Park Road in Killarney Town, approx.1km to the east of the Town Centre. Park Road (R876) runs eastwards from the town centre to the Killarney Bypass Road (N22) to the east of the town. The site is located at the junction of Park Road with Oakdale Rad/Countess Road, which links with the N71 to the south of the town.
- 1.2.** The site/building, the subject of the appeal, forms part of a small neighbourhood shopping centre, which is situated on the south-western corner of the roundabout junction. The shopping centre building is set back from each of the boundaries with on-site parking and circulation space. There is a parade of shops along each of the northern, eastern and western elevations, respectively. The pharmacy occupies the north-eastern corner of the building with frontage to both elevations. This element of the building is 2-storeys in height with a mansard style roof with a set of tri-angular shaped dormer windows set into the roof slope. This is the central feature element of the complex and the remainder of the building is single-storey with turret-style features at the ends of each parade of shops. The shopping centre includes a Spar, Paddy Power, a hair salon, a hot food take-away and a couple of small comparison outlets.
- 1.3.** The shop unit is designed as a hectogon which results in a projecting corner unit with five separate sides. Each side has a shop front with a fascia overhead, each of which is positioned under the triangular dormer window. One of the 'shop fronts' is used as the entrance to the shop and is glazed with a retractable security shutter and the remainder of the sides (or 'shop fronts') are covered or partially covered with poster boards. There is a sign on each of the five fascia boards. There is also an illuminated projecting sign over the entrance.

2.0 Proposed Development

- 2.1.** Permission is sought to retain the signage on the building as follows:

 1. Alterations to fascia and soffit/shop front with illuminated signage.
 2. Signage posters to window openings with associated lighting.
 3. Projecting illuminated sign above the main entrance door.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to **refuse** permission for one reason.

The proposed retention of the advertising signs at this location would detract greatly from the appearance of the building and the Countess Road area in general. By virtue of its size, design and internal illumination the proposed retention of the signs would be contrary to objectives 12.45 and 12.47 of the Town Development Plan. It is considered that the proposed retention of the illuminated advertising would set an undesirable precedent for similar developments which would further detract from the appearance of the area. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

It was noted that the site is zoned “Built Up Area” in the Killarney Town Development Plan. It was stated that planning permission had been granted for alterations to the shopfront under Reg. Ref. 12/205330 subject to conditions, which included restrictions on the style, type and location of signage. It was considered that the proposed development would contravene these conditions and would be contrary to the objectives of the Development Plan. It was stated that the amount of signage on this prominent building would give rise to clutter and would detract from the appearance of the area.

3.2.2. Other Technical Reports

Building Control – no issues raised.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Michael Hegarty Jnr. – Objections raised as follows:

- Extent of land ownership – This has been misrepresented by the applicant. An aerial photo with the correct land ownership details (Michael Hegarty and David Hegarty) of the shopping centre site is provided. The application should be invalidated.
- Flashing sign – The applicant has erected a flashing sign over the door of the pharmacy which is detracting from the ambience of the area. This is contrary to condition 13 of 02/3970 and 11/205250 which prohibited internally illuminated signage on this shopfront.
- Posters and illuminated illustrations – these are not in compliance with the above-mentioned permissions. There is also an internal electronic advertising sign inside the windows.
- Projecting sign – the cross shaped pharmacy sign is a flashing sign which changes colour and advertises products.
- Bike stand – the applicant has fitted a low bike stand adjacent to his shop entrance which is causing a nuisance due to people sitting on it and leaving their rubbish behind. This should be relocated to outside the pharmacy.
- Non-complaint signage – not all of it has been included in the application.

4.0 Planning History

- 4.1. **02/203970** – permission granted in 2003 to make existing petrol station redundant, to demolish existing petrol sales shop and store, and to construct a new retail unit on two levels with stairwell and bins. Permission was granted subject to 18 conditions, most of which were of a standard type. However, the following conditions are of relevance

Condition 6 prohibited the erection of any advertising signs or related devices on the premises, site or approach roads without prior planning permission, particularly illuminated or plastic signs.

Condition 13 required that all illumination on site and forecourt to be designed, located and shielded in such a manner as to avert undue glare in respect of passing traffic and adjoining residential properties.

Condition 15 required all windows, doors, shop fronts and fascia boards to be of timber construction and the lettering on the fascia boards to be either solid lettering directly affixed or painted lettering. Shop front colours to be agreed with the P.A.

- 4.2. 11/205250** – permission was granted in 2011 for alterations to existing fascia signage, erection of 1 no. “green cross” LED signage, and alteration of front entrance door arrangement. The proposed development had also included a totem style sign and a second green cross sign which were refused. Condition 4 required

The proposed green cross, sign no. 2, proposed to the Park Road elevation of the building shall be a solid green cross LED sign. The sign shall not flash, twirl or have any symbols appear internally on it. Precise details in relation to the design of the sign shall be submitted for the written agreement of the planning authority prior to the commencement of development.

- 4.3. 12/205330** – Permission granted in 2013 for retention of alterations to design and finish of the front elevation, alterations to entrance door arrangement, erected advertising signage and associated works at Park Road Pharmacy. Permission was granted s.t. four conditions.

Condition 2 – The panel on the south-eastern facing window shown on photo 6 of the FI received on 07/03/13 shall be changed to a blank panel to match the colour of the shop front, the message “good advice for your health” may be put on the blank panel. Precise details of same shall be agreed with the P.A. prior to work being carried out. These changes shall be carried out within 6 months of the grant of permission.

Condition 3 – The full window graphic panels shall show generic healthcare images only and shall not be used for the purposes of advertising merchandise of any kind. Any changes to the images currently in place shall be agreed in writing with the P.A. prior to the changes being made.

Condition 4 – No further signs or banners shall be erected on the site, footpath or approach roads without a prior grant of permission.

5.0 Policy Context

5.1. Development Plan

Killarney Town Development Plan 2009-2015 (as extended and varied)

The site is located in an area zoned as Built Up Area (M4). The objective for this zone is to cater zones which are specifically mixed use in nature and provide for a wide range of uses.

12.45 – Commercial buildings, Shopfronts and Advertising – modern ‘multiple’ formats which have adopted a corporate image will not necessarily be allowed to use their standardised shop front design, corporate colours and materials and applicants shall be encouraged to ensure that the fascia takes account of the character of the local street. It is also stated

- shopfront signs should be kept to a minimum
- only signs which are truly necessary should be allowed
- the wording should be simple, direct and avoid repetition
- internally illuminated fascia/projecting box signs shall not be allowed.

12.47 – Advertisement Policy – internally illuminated signage shall not be favoured. Neon, plastic or flashing type signs shall not be allowed on the exterior of buildings or where they are located internally, but visible from outside, will be prohibited.

5.2. Natural Heritage Designations

The Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC (000365) and the Killarney National Park SPA (004038) are located within 1 kilometre of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The first-party appeal was submitted by David Mulcahy Consultants on behalf of the appellants. The main points raised may be summarised as follows:

- CarePlus pharmacies – CarePlus operate a chain of pharmacies around the country and use a distinctive blue signage which is used throughout their pharmacies in order to distinguish their stores (pictures provided).
- Visual impact – the first part of the reason for refusal relates to visual impact and is subjective in nature. It is submitted that the current proposal is not significantly different from the one previously granted under 12/205330. At that time, the planner considered that the shopfront would be an improvement and that the signage and poster signs were acceptable. This is a commercial area where many buildings have signage. The proposed signage is typical of a pharmacy and needs to be conspicuous so that people can find it in an emergency, especially a late-night pharmacy
- Size, design and internal illumination contrary to Objectives 12.45 and 12.47 – the P.A. had accepted that the signage proposed under 12/250330 was acceptable. Reference is made to the planner's comments regarding the FI submitted to the P.A. at that time (March 2013) and claim that the same reasoning is applicable to the current proposal. In particular, the following points are made –
 - 1) The poster graphic signage does not involve direct advertising of products/merchandise – only generic healthcare
 - 2) The pharmacy had to be reconfigured internally to meet HSE and DAC requirements which necessitated a reduction in the amount of window space available to facilitate consultation rooms, shelving etc.
 - 3) The external shape of the unit is unique with 5 no. external windows with implications for safety. The redesign using poster boards, a single entrance point and less window space have enabled security issues to be addressed.
 - 4) The signage and posters provide a far more modern and contemporary appearance and were needed to generate custom in what was a significant underperformance prior to this work being carried out.
- Precedent – The P.A.'s reason that the illuminated advertising would set an undesirable precedent which would further detract from the appearance of the

area is ultra vires, as the decision must relate solely to the proposal before the authority.

- Illuminated signage – such signage is standard fare for late night pharmacies as they need to be clearly visible into the evening and night and is not that dissimilar to that permitted previously. A requirement to remove some/all of the said signage would leave the pharmacy at a disadvantage to competitors.

6.2. Planning Authority Response to grounds of appeal

The P.A. responded to the grounds of appeal on 9th September 2019as follows:

- The First Party appeal is accompanied by a series of photos of other CAREPLUS Pharmacies with similar shopfronts to that refused in this application. These pharmacies are not located in Killarney and were not granted permission in accordance with the Town Development Plan.
- The Killarney Development Plan sets out specific criteria for shopfronts in the town. The development would be contrary to the objectives of the Development Plan. Photos are included of pharmacies in the town, which have far less advertisements that the proposed development.
- The claim that the amount of signage is not that dissimilar to that previously permitted is disputed.
- The proposed development would be contrary to the conditions of 12/250330.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows:-

- Compliance with Development Plan policy
- Visual impact of signage
- Compliance with terms of previous permissions on site
- Precedent
- Environmental Impact Assessment
- Appropriate Assessment

7.2. Compliance with Development Plan policy

- 7.2.1.** The Killarney Town Development Plan objectives on shopfronts, advertisements and signage are set out in 12.45 and 12.47 and summarised at 5.1 above. It is noted that there is a general presumption against standardised shopfront designs which use modern 'multiple' formats which have adopted a corporate image, including corporate colours and materials, and that internally illuminated signs and projecting box signs are not generally favoured/allowed. In addition, the objective is to minimise the number of shopfront signs to that which is absolutely necessary and that they should use simple, direct wording which avoids repetition, with fascias which take account of the character of the local street.
- 7.2.2.** It is considered that the proposed development fails to comply with the spirit and the letter of these objectives. The proposed development seeks to retain 5 no. fascia signs, 4 no. poster signs, one internally illuminated digital sign and one projecting sign. The nature and extent of the signage in terms of the number and size of the signs, the complexity of the messages is contrary to objectives as outlined above. The appellant had acknowledged that the signage is consistent with the corporate signage in use at CarePlus pharmacies across the country, (with photos to demonstrate), but claims that the signage does not differ markedly from that permitted previously on the site.
- 7.2.3.** I would agree that the number and type of signs proposed is similar to that permitted under 11/250205 and 12/250330. Each of the 'shop fronts' (as permitted) had a separate fascia sign, three of the windows were fully obscured by poster signs and one was partially obscured, and an illuminated box sign was permitted. The images submitted to the P.A. on 7th March 2013, (FI under 12/250330), however, were not standardised corporate images. Neither was the nature and extent of illumination as extensive as currently proposed. Each of the fascia signs has been enlarged and two of the signs incorporate projecting lettering which are internally illuminated. The remainder of the fascia signs include backlit lettering. The poster signs have been illuminated from inside the windows and one of the windows includes a digital sign. Although the poster boards do not advertise merchandise, they contain multiple

messages on a bright pink background. The projecting illuminated sign has been changed to one with moving/changing backgrounds and colours.

- 7.2.4.** It is considered that the signage that is proposed to be retained fails to comply with the objectives of the Development Plan by reason of the size, nature, extent and degree of illumination and the fact that it clearly displays a standardised corporate shopfront design.

7.3. Visual impact of signage

- 7.3.1.** The site is in a prominent location on the junction of Park Road and Countess Road. The retail unit is also prominently located within the site, occupying the corner site with a projecting octagonal element, which is a pivotal feature of the shopping centre. There is no effective boundary treatment with low or no walls and surface parking surrounding the building. The overall area is mixed use with housing estates and older housing units as well as more recent commercial and mixed-use developments. The signage on the other units within the shopping centre is quite low key and under-stated, apart from a large totem/free-standing sign in the car park. Although there is some level of illumination, it is generally of a less obtrusive design and consists mainly of one or two signs per retail unit. Similarly, the commercial development on the opposite corner of the road junction has signage which is quite unobtrusive.

- 7.3.2.** It is considered that the combination of the extensive array of signs, the high level of illumination used, the scale and nature of the signs and the use of bright/garish corporate colours makes the proposed signage visually obtrusive. The projecting sign which flashes, contains moving images, is intensely illuminated and displays multiple messages is particularly obtrusive and detracts from the character of the shopping centre and the area. It is also likely to distract drivers at the busy road junction. I would agree with the planning authority's view that it creates visual clutter and that it would detract from character and the visual amenities of the area.

7.4. Compliance with terms of previous permissions on site

- 7.4.1.** The original permission for the shopping centre (02/203970) was granted subject to a number of conditions one of which (No. 13) required that any illumination be designed, located and shielded to avert undue glare to passing traffic and adjacent residential properties. It is considered that the extensive nature of the illumination

used in the signage, together with the flashing, alternating images of the projecting sign contravenes the terms of this condition.

7.4.2. Condition 4 of 11/205250 specifically prohibited any flashing, twirling or symbols appearing internally within the permitted illuminated projecting sign. It was also stated that the permission related to one “green cross” pharmacy sign. The nature of the current proposals for the illuminated projecting sign clearly contravene this condition as the sign flashes, moves, incorporates images on changing backgrounds etc. The colours change from green cross, to white cross, to blue cross with corporate logos appearing in different colours. The sign also gradually fills with coloured light from darkness.

7.4.3. The most recent permission (12/250330) permitted the concept of the poster panels occupying three and a half-glazed sections of the shopfront windows. Condition 2 required the south-eastern panel to be replaced by a blank panel with a specific generic message, and Condition 3 required all of the panels to display generic health related messages only, and not to include advertising for merchandise or products. It is acknowledged that Condition 3 has been complied with, as the messages on the poster panels are generic. However, the south-eastern panel now incorporates the corporate signage with multiple messages which does not conform with the requirement of Condition 2. It is considered, however, that it would be unreasonable to require adherence to the requirements of this condition in the long term as the ownership or nature of the retail unit could change without the need for planning permission.

7.4.4. In conclusion, therefore, it is considered that the proposed development materially contravenes the terms of Condition 13 of 02/203970 and of Condition 4 of 11/205250.

7.5. Precedent

7.5.1. The appellant considered that the use of the term undesirable precedent for similar development, in respect of the illuminated advertising, which it was considered would further detract from the appearance of the area, was ultra vires, as it was submitted that each case must be considered on its merits.

It is considered, however, that as the reference was made in respect of illuminated signage, which is explicitly stated in the development plan as “not allowed”, the

creation of a precedent in allowing a projecting illuminated flashing sign of the type proposed to be retained is relevant in this instance, as it could potentially undermine the policy objectives for the area. Given that the site is one of several retail units within a shopping centre and that there are other retail units in the near vicinity of the site, it is considered that the issue of precedence in this context is a relevant material consideration.

7.6. Environmental Impact Assessment

- 7.6.1.** Having regard to the nature and scale of the development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.7. Appropriate Assessment

- 7.7.1.** The site is located within 1 km of the Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC (Site code 000365) (to the south-east and the south-west) and within 1km of the Killarney National Park SPA (Site code 004038) which is located to the southwest.

8.0 Recommendation

- 8.1.** It is recommended that planning permission be **refused** for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The advertisement signage that is proposed to be retained, due to its size, design, internal illumination with flashing and moving images and the extensive nature of the illuminated signage would be visually intrusive in the surrounding residential and commercial areas and would be excessive and unsympathetic to the design of the shopping centre in which it is located. The proposed development would, therefore, seriously injure the visual amenities of the area, would be contrary to the provisions of the current Development Plan for the area in relation to advertising, which provisions are considered to be

reasonable, and would set an undesirable precedent for future development of this kind. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development by reason of the nature and extent of illumination of the signage, which incorporates flashing and moving images, that is proposed to be retained materially contravene a condition attached to an existing permission for development, namely condition no. 13 attached to the permission granted by the planning authority on the 28th day of April 2003 under planning register reference no. 02/203970 and a condition attached to an existing permission for development, namely condition no. 4 attached to the permission granted by the planning authority on the 21st day of September 2011 under planning register reference no. 11/205250.

Mary Kennelly
Senior Planning Inspector

27th November 2019