



An
Bord
Pleanála

Inspector's Report ABP 308176-20

Development	Retention of signage, removal of projecting sign and replacement with internally illuminated projecting sign and removal of window graphics and replacement with frosted etching.
Location	Careplus Park Road Pharmacy, Countess Centre, Park Road, Killarney, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/312
Applicant	Park Road Pharmacy Ltd.
Type of Application	Retention Permission & Permission
Planning Authority Decision	Grant subject to condition
Type of Appeal	3 rd Party v. Grant
Appellant	Michael Hegarty Jnr.
Observer(s)	None
Date of Site Inspection	04/12/20
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site was subject of a previous appeal under ref. ABP 305083-19 for retention of signage. Permission was refused in December 2019.
- 1.2. The site is as described in the said appeal and is as follows:
- 1.3. 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 Road/Countess Road, which links with the N71 to the south of the town.
- 1.4. 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 couple of small comparison outlets and a gym.
- 1.5. 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. The application was lodged with the planning authority on the 01/04/20 with further plans and details submitted 16/07/20 following a request for further information (FI) dated 03/07/20. Revised public notices were submitted 24/07/20.
- 2.2. Retention permission is sought for the following signage on the building as follows:
 1. Alterations to fascia and soffit/shop front with illuminated signage.
 2. Window graphics to north and west elevations.
- 2.3. Permission is sought for
 1. Removal of flashing LED projecting sign and replacement with internally illuminated projecting sign above main entrance door.
 2. Removal of window graphics to south and east elevations and replacement with frosted etching.
- 2.4. Unsolicited further information dated 14/08/20 and 17/08/20 (same submission in each) responds to the objection received.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development in two schedules.

3.1.1. *Schedule 2A – Retention Permission*

Condition 1: Compliance with plans and particulars received 01/04/20, 16/07/20, 24/07/20, 14/08/20 and 17/08/20

Condition 2: The fascia and soffit signage shall not be internally illuminated.

Condition 3: Window graphics to be removed within 3 months of date of decision and replaced by opaque glass with frosted etching as shown on 'window 2'.

3.1.2. *Schedule 2B – Removal of Signage and Window Graphics and their Replacement*

Condition 5: Projecting green cross sign may be internally illuminated and shall be static.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Area Planner's report dated 02/09/20 recommends further information on the signage and advises the applicant that the arrangement still results in an extensive array of signs with a high level of illumination and is visually obtrusive. Revised plans to address these concerns recommended to avoid a refusal of permission.

The 2nd report dated 18/05/20 following further information considers the issues raised in the request have been addressed. Posters 3 and 4 were refused by the Board. These should be refused and replaced with a solid panel with opaque glass and etching. The fascia signs should not be internally illuminated. A grant of retention permission and permission subject to conditions recommended.

3.2.2. Other Technical Reports

Fire Authority has no objection.

3.3. Prescribed Bodies

Transport Infrastructure Ireland has no observations.

3.4. Third Party Observations

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised pertain to extent of land ownership, impact of flashing sign on amenities of area, internally illuminated signage contrary to grant of permission and development plan provisions. Not all of the signage has been included in the application. Nuisance arising from location of bike stand and absence of site notice. A further submission following FI notes signage to be retained has previously been refused. The proposed size of the reduced blue fascia should be dimensioned to ensure no ambiguity.

4.0 Planning History

- 4.1. **02/203970** – permission granted in 2003 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 of note:

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 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 to be a solid 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 to 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 subject to four conditions:

Condition 2 required the panel on the south-eastern facing window shown on photo 6 of the FI received on 07/03/13 to 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 to be agreed with the changes to be carried out within 6 months of the grant of permission.

Condition 3 required the full window graphic panels to show generic healthcare images, only, and not to be used for the purposes of advertising merchandise of any kind. Any changes to the images currently in place to be agreed.

Condition 4 required no further signs or banners to be erected on the site, footpath or approach roads without a prior grant of permission.

4.4. **ABP 305083-19 (19/508)** – retention permission refused for alterations to fascia and soffit/shop front with illuminated signage; signage posters to window openings with associated lighting and projecting illuminated sign above the main entrance door for 2 reasons which can be summarised as follows.

1. The signage due to its size, design and internal illumination with flashing and moving images and its extensive nature is 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. It would seriously injure the visual amenities of the area, would be contrary to the provisions of the current Development Plan in relation to advertising, and would set an undesirable precedent for future development of this kind.
2. The development by reason of the nature and extent of illumination of the signage, which incorporates flashing and moving images, materially contravenes condition no. 13 attached to the permission granted under planning register reference no. 02/203970 and condition no. 4 attached to the permission granted under register reference no. 11/205250.

5.0 Policy Context

5.1. Development Plan

5.2. **Note:** The Killarney Municipal District LAP was adopted in December 2018. It states that the Killarney Town Development Plan 2009-2015, as extended, will continue to apply to the area formerly administrated by Killarney Town Council. The said plan will remain in force as the relevant development plan for the former town council area until the next Kerry County Development Plan is adopted in 2021.

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

5.3. As can be extrapolated from the Zoning Map (Variation No.4) the site is located in an area zoned as Built Up Area (M4). The objective for this zone is to cater for areas which are specifically mixed use in nature and provide for a wide range of uses.

Note: This differs from the agent for the applicant's view that the site is within Town Centre B.

5.4. Section 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.

5.5. Section 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.

5.6. Natural Heritage Designations

The Killarney National Park, MacGillycuddy's 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 3rd Party appeal can be summarised as follows:

- The signage and graphics in window 3 due to its size is visually obtrusive. It is excessive and unsympathetic to the design of the shopping centre. It would be contrary to the development plan provisions in relation to advertising. It

would set an undesirable precedent. It was previously refused permission by the Board. The window should be full frosted/opaque glass.

- The internally illuminated green cross sign has previously been refused by the Board. It materially contravenes condition 13 attached to permission ref. 02/3970 and condition 4 attached to permission ref. 11/5250

6.2. Applicant Response

The submission by David Mulcahy Planning Consultants Ltd. on behalf of the applicant can be summarised as follows:

- The previous planning ref. 19/508 included retention of a greater amount of poster panels which included the south-eastern elevation. The current application is proposing to replace these window graphics with frosted etching. Retention is sought for the remaining window graphics which were permitted under ref. 12/205330 as they display generic, health related messages, only, and do not advertise merchandise or products.
- Window Sign No.3 is located to the left side of the shop entrance. It is not backlit and does not contain any flashing or moving images. The poster signage is the same as that permitted under ref. 12/250330 (as per condition 3).
- The green cross sign will only contain static backlighting which does not involve any flashing or moving images. Permission was granted for 1 green cross LED sign under ref. 11/205250 (condition 4). The applicant seeks to replace the existing flashing sign with an internally illuminated static sign. It would not have any material adverse visual impact on commercial and residential properties in the vicinity.
- The illuminated CAREPLUS sign on the Countess Road elevation is to be removed. Only the 'Park Road' internally illuminated lettering will be displayed on the north and east elevation which is far less obtrusive than what currently exists.

- The existing CAREPLUS signage over the entrance needs to be internally illuminated and conspicuous so that people can locate the late night pharmacy especially in an emergency and on dark evenings.
- The blue fascia depth is 700mm.
- The grey backing panel for the fascia signage is shown on the drawings.

6.3. **Planning Authority Response**

The submission can be summarised as follows:

- The assessment is set out in the Planner's report.
- The planning authority has taken previous decisions made by the Board into account when assessing this application.
- It is considered a balance has been achieved between the need to comply with the provisions of the Killarney Town Development Plan and the changing nature of the pharmacy business since the original permission was granted in 2002.
- The appellant's supermarket and various other businesses within the shopping centre have an abundance of advertisements. The signage to be retained is in keeping with its immediate surroundings and is acceptable.

6.4. **Observations**

None

7.0 **Assessment**

- 7.1. In response to the refusal of retention permission for signage under ref. ABP 305083-19 (19/508) the current proposal entails alterations to same so as to address the 2 no. reasons for refusal. The amendments were further revised by way of further information in response to the planning authority's request which stated that the amendments were not sufficient to address the said concerns.

7.2. The proposed modifications as amended by way of further information are as follows:

7.3. **Side Elevation (south facing):**

- Removal of blue fascia (note: the plans are somewhat confusing in that drawings delineate the removal of the fascia but the text refers to its reduction).
- Removal of poster signage in window no. 1 and replacement with clear frosted opaque etching without text.

7.4. **Elevation to Countess Road (East Facing):**

- Removal of part of the blue fascia.
- Removal of CAREPLUS back lit sign.
- Removal of poster signage in window number 2 to be replaced with clear frosted opaque etching with text.
- Retention of non-illuminated poster signage in the window no 3 (1 panel).

7.5. **Front Entrance Elevation to Park Road (North Elevation):**

- Retention of non-illuminated poster signage in window no.4 (3 panels)
- Illuminated projecting sign is to be removed and replaced by a smaller projecting sign.

7.6. As noted by the Inspector on the previous appeal 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 area comprises a mix of uses 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. The units fronting onto Park Road entail corporate signage and livery and are generic in design (Spar, Paddy Power) with limited illumination.

- 7.7. I would concur with the Inspector on the previous appeal that the existing arrangement on the premises with the myriad of signage, level of illumination and the projecting sign (not flashing on day of inspection) creates visual clutter and detracts from the character and visual amenities of the area.
- 7.8. The proposed amendments which include the maintenance of the corporate design approach in terms of the colour palette and signage cannot be considered to be of a particularly high quality. However I submit that the alterations as detailed above do go some way to reduce the visual clutter.
- 7.9. The reduction in the blue fascia and consolidation in the signage with the removal of the large 'CAREPLUS' sign on the elevation to Park Road represents an improvement over that existing. I note that the applicant did not appeal the condition attached by the planning authority precluding the signage being internally illuminated. Alternative lighting arrangements would improve the visual appearance whilst also satisfying the necessary requirements in terms of illumination at night. I recommend a condition to this effect would be appropriate.
- 7.10. The projecting illuminated flashing sign over the door is to be removed and replaced by a smaller projecting sign which will be static thereby reducing the detracting nature of the signage.
- 7.11. Signage posters are to be retained in the windows to either side of the entrance (nos. 3 and 4) only, will be generic in terms of the marketing, and will not be illuminated. The poster in window no.3 is only in one panel with clear glazing allowing views into the shop in the other two panels. The posters in window no. 4 cover the three panels. The removal of the poster signage from windows 1 and 2 to be replaced with opaque glazing, one which will be etched with text, will assist in reducing the visual clutter.
- 7.12. I consider that the amendments can be seen to be in compliance with condition 13 attached to the original permission for the shopping centre granted under ref. 02/20397 in that the illumination (to be amended by condition as recommended above) will not result in undue glare to passing traffic and adjacent residential properties. The replacement of the projecting flashing sign with a smaller fixed illuminated sign will not contravene condition 4 of 11/205250 which prohibited any

flashing, twirling or symbols. The permission allowed for one “green cross” pharmacy sign.

- 7.13. The permission granted under ref. 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. In my opinion this will be complied with by the removal of the signage in windows 1 and 2 and replacement with opaque glazing, one with etched text. Condition 3 required all of the panels to display generic health related messages only, and not to include advertising for merchandise or products. This has been complied with as the messages on the poster panels are generic. As such I consider that the requirements of condition 3 attached to the planning authority’s notification of decision which requires their removal to be unreasonable.
- 7.14. I note that the policy context against which the application is required to be assessed is the same as in the previous appeal. The Killarney Town Development Plan provisions in terms of shopfronts, advertisements and signage as set out in sections 12.45 and 12.47 has 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. Whilst the signage that is proposed clearly displays a standardised corporate shopfront design the proposed amendments represent a material improvement in terms of visual clutter and, in the context of the prevailing environment within a purpose built shopping centre where other corporate signage prevails, the amendments are considered acceptable.
- 7.15. In conclusion I consider that the proposed amendments will address the previous concerns in terms of visual clutter and will assist in improving the visual amenities of the area.

Appropriate Assessment

- 7.16. Having regard to the nature and scale of the development it is concluded that no Appropriate Assessment issues arise as the proposed development would not be

likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations and subject to conditions.

9.0 Reasons and Considerations

Having regard to the nature and extent of signage to be retained and the amendments proposed and to the pattern of existing development in the vicinity, it is considered that subject to compliance with the conditions set out below, the proposed development would not be visually obtrusive and would not detract from the character or seriously injure the amenities of the area or of property in the vicinity. 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 retained and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and details submitted on the 16th day of July 2020, 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 existing fascia, signage, projecting sign and signage posters to be removed and the replacement obscure glazing and projecting fixed static sign as detailed on the plans and particulars received by the planning authority on the 16th day of July, 2020, shall be carried out within four months from the date of this order.

Reason: In the interest of clarity and visual amenity.

3. The fascia and soffit signage shall not be internally illuminated. Revised proposals for lighting of the signage shall be submitted to the planning authority for written agreement and the agreed amendments carried out within 4 months from the date of this order.

Reason: In the interest of visual amenity.

Pauline Fitzpatrick
Senior Planning Inspector

December, 2020