



An
Bord
Pleanála

Inspector's Report ABP-309635-21.

Development	Change of use from retail unit to veterinary reception and consultation rooms and change of use of first floor offices to vet treatment rooms.
Location	89 Rathgar Road, Dublin 6.
Planning Authority	Dublin City Council South.
Planning Authority Reg. Ref.	WEB1915/20.
Applicant(s)	Charles Cosgrave.
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions.
Type of Appeal	Multiple Third Party
Appellant(s)	Helen Cunningham. Roisin O'Donovan
Observer(s)	None.
Date of Site Inspection	13/05/2021.
Inspector	A. Considine.

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1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of the Rathgar Road, the R114. The site comprises a corner plot which fronts onto both the Rathgar Road to the east and Wesley Road to the south. Wesley Road is a narrow cul-de-sac residential road comprising 25 2½ storey terraced houses. This street provides for parking on both sides of the street and on the date of my inspection, I had to reverse back out onto the Rathgar Road as there is no space to turn on the street. The Rathgar Road includes a variety of uses in the immediate vicinity of the subject site including a restaurant, a take-away, a beauty parlour and primarily residential.
- 1.2. The site has a stated area of 87m² and the existing building on the site has a stated floor area of 150m² over two floors. The building is currently unoccupied, and the previous use was as retail / office. The building enjoys two access points, one on the corner of the building at Rathgar Road / Wesley Road and a second on Wesley Road. The two-storey building has a plaster finish at ground floor level and a dashed finish at first floor level.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the change of use of existing ground floor retail unit to veterinary reception and consultation room, change of use of existing first floor offices to veterinary treatment rooms and associated internal modifications, all at 89, Rathgar Road, Dublin 6, D06 A6F7.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form
 - Letter of consent from property owner.
- 2.3. The proposed development will not result in any physical changes to the exterior of the building other than signage. The internal works proposed include the creation of a consultation room at ground floor level and the rearranging of rooms at first floor level to provide a cat and a dog ward, a prep room and an operating room.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 10 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submissions, planning history and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The Planning Report concludes that the proposed development is acceptable on the basis that the use is open for consideration within the zoning objective and that the site is located within an area which includes a number of retail and commercial units. With regard to the concerns raised in terms of noise, the report notes the limited size and location of the proposed cat and dog wards to the front of the building and considers that details for the mitigation of noise and restriction of hours of operation by condition to be appropriate.

In terms of the parking issues raised, the report notes the content of a Transport Planning Division report (not on file or on the website) which is advised raised no objection to the proposed development noting that the parking requirement is reduced, parking is controlled by pay and display and double yellow lines in this area and cycle parking should be available on-street. The Planning Officer recommends that permission be granted for the proposed development, subject to 10 conditions.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to compliance with conditions.

The Board will note that the Planning Authority report refers to a report from the Transport Planning Division having been submitted. This report is not on the file and does not appear on the Dublin City Council website.

3.2.3. **Prescribed Bodies**

None.

3.2.4. **Third Party Submissions**

There are 4 no. third party objections/submissions noted on the planning authority file. The issues raised are summarised as follows:

- Parking constraints in the area and the impact of the development on Wesley Road.
- If the planned Bus Connect goes ahead, there will be no parking on Rathgar Road during the day.
- The development will have a negative impact on the amenity of residents in the area.
- Impact of additional traffic on pedestrians and cyclists.
- The use of the building overnight will result in dogs becoming distressed resulting in barking, whimpering and howling all night. The impact of noise should be addressed.
- The proposed use is unsuitable to the zoning of the site.
- No information has been provided in relation to a number of issues including parking, waste management and noise mitigation.
- Hours of operation raised as a concern.

4.0 **Planning History**

The following is the relevant planning history pertaining to the subject site:

ABP ref PL.29S.228218 (PA ref: 6734/07): Permission granted for the change of use of ground floor from retail to medical consulting rooms. Permission refused for the change of use of 1st floor office use to medical consulting rooms for the following reason:

The site is zoned Z1, the objective of which as set out in the current development plan for the area is to protect, provide and improve residential amenities (which objective is considered to be reasonable). It is considered that the proposed change of use at first floor level would give rise to significant additional demand for parking and would result in overspill parking on a narrow residential street where the limited parking available is already under significant pressure from residential, commercial and community uses in the immediate vicinity. This element of the proposed development would, therefore, fail to reinforce the residential function of the area as a whole and would materially contravene the zoning objective for the area.

Ultimately the decision of the Board provided for a ground floor use which comprised a reception area and 1 medical consultation room.

PA ref: 1353/99: Permission granted for a two-storey extension to shop.

5.0 Policy and Context

5.1. Development Plan

The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Z1: Sustainable Residential Neighbourhoods where it is the stated objective ‘to protect, provide and improve residential amenities’. A veterinary surgery is a use which is open for consideration in the Z1 zone.

5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are located approximately 4.5km to the east of the site.

The Grand Canal pNHA, (Site Code 002104), is located approximately 1.8km to the north of the site.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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.

6.0 The Appeal

6.1. Grounds of Appeal

This is a multiple third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development from Helen Cunningham and Roisin O'Donovan. The issues raised reflect those raised with the PA during their assessment of the proposed development and are summarised as follows:

- Lack of parking facilities in the area and ongoing issues with parking on double yellow lines.
- The provision of a veterinary clinic with no parking would exacerbate the problem of parking.
- Impact on residential amenity of Wesley Road residents in terms of hours of operation. Opening hours should be restricted to during the week with no opening at the weekend and issues relating to noise require to be addressed.
- Public health impacts on street cleanliness. Lack of outdoor space will force patients to wait outside with inevitable dog fouling on the street.
- Inadequate details were provided in terms of the level of usage of the building, areas for waste storage and waiting clients and parking.

6.2. Applicant Response

The first party submitted a response to the third-party appeal and is summarised as follows:

- The existing building is currently vacant, underutilised and detracting from the residential amenity of the area.
- The proposed use represents a significant improvement to the existing residential amenity.
- The opening hours are set out in Condition 9 of the PAs decision to grant and given the surrounding commercial uses they are considered appropriate for the location.
- In 2008, permission was granted for the change of use of the building to medical consultation rooms¹. The current proposal contains significantly less consultation rooms and is a less intensive use of the building.
- The proposed ground floor provides for adequate space for customers to wait for their appointments.
- The clinic will implement a standard appointment schedule which results in very few customers waiting at any given time, other than in an emergency situation.
- Facilities will be provided inside the practice for disposal of any waste.
- Outdoor space is not considered necessary for the effective functioning of the veterinary clinic.
- Waste will be stored on the ground floor level and bins will be moved outside for collection which is standard practice.
- With regard to traffic management and parking, it is submitted that the building is located within an established residential community and the practice will provide a vital service to residents in the area.
- There is an established pay and display parking system in the area.
- There will be 2-3 staff at the practice on a day-to-day basis and they will be encouraged to walk / cycle or take public transport.

¹ The Board will note that this refers to the Board decision ABP ref PL.29S.228218 (PA ref: 6734/07). Permission was not permitted for the change of use of the first floor as suggested in the applicants' response to the third party appeals.

- It is not within the control of the applicant to monitor the use of the public pathway and road outside their property boundary.
- There will be a very limited level of noise associated with the day-to-day operation of the business and no animals will be held in the facility overnight.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Planning History
2. Roads & Traffic
3. Residential Amenity Issues
4. Appropriate Assessment

7.1. **Principle of the development**

- 7.1.1. The Board will note that the subject site lies approximately 200m north of the village centre of Rathgar, and approximately 4km to the south of Dublin City Centre. The proposed development seeks to change the use of an existing retail and office building to use as a veterinary clinic, which will include a consultation room and reception at ground floor level as well as a pharmacy store, and operating and prep rooms, as well as a cat and a dog ward, and staff facilities at first floor level.

- 7.1.2. The site is zoned Z1: Sustainable Residential Neighbourhoods where it is the stated objective 'to protect, provide and improve residential amenities'. A veterinary surgery is a use which is open for consideration on Z1 zoned lands.
- 7.1.3. In terms of the above, I am satisfied that the principle of the proposed development adequately accords with the requirements of the Dublin City Development Plan.

7.2. Roads & Traffic

- 7.2.1. Having undertaken a site inspection, I can attest to the significant parking constraints in this area of Rathgar. Parking is facilitated on both sides of the narrow residential street, Wesley Road and parking also occurs on the north bound bus lane on Rathgar Road. In this regard, I acknowledge the third-party submissions. There is a pay and display parking system on Wesley Road, and it is noted that residents struggle to find spaces to park on the street. In the context of the proposed change of use, I would note that the existing building has a permitted commercial use.
- 7.2.2. I also note the planning history associated with the subject site, and in particular, the previous Board decision, ABP ref PL.29S.228218 (PA ref: 6734/07) refers. Permission was granted following an appeal, for the change of use of the ground floor from retail to medical consulting rooms and permission was refused for the change of use of 1st floor office use to medical consulting rooms. The proposed development sought to provide for 4 consultation rooms within the building and ultimately, the decision of the Board provided for a ground floor use which comprised a reception area and 1 medical consultation room. Permission was refused for the 3 consultation rooms at first floor level for the following reason:

The site is zoned Z1, the objective of which as set out in the current development plan for the area is to protect, provide and improve residential amenities (which objective is considered to be reasonable). It is considered that the proposed change of use at first floor level would give rise to significant additional demand for parking and would result in overspill parking on a narrow residential street where the limited parking available is already under significant pressure from residential, commercial and community uses in the immediate vicinity. This element of the proposed development would,

therefore, fail to reinforce the residential function of the area as a whole and would materially contravene the zoning objective for the area.

- 7.2.3. In the context of the proposal before the Board, I would agree that any significant intensification of use of the building would likely give rise to significant impacts on the parking situation in the immediate vicinity. This in turn, would have an impact on existing residential amenity. However, I do note that the permitted development provided for a single consultation room. The proposal before the Board seeks to provide one veterinary consultation room at ground floor level, with an operating room, prep room and a cat and a dog ward proposed at first floor level. The details submitted by the applicant in response to the third-party appeals indicates that only 2-3 people will be present on site on a day-to-day basis. In this context, I would consider that the scale of the proposed veterinary clinic equates to the medical consultation rooms as permitted previously by the Board. As such, I consider that the proposed development can be deemed acceptable in terms of traffic and parking.

7.3. Residential Amenities

- 7.3.1. I note the third-party submissions in terms of the potential for the proposed development to negatively impact on the existing residential amenities of the area. With regard to noise issues, I note that the proposed facility will not keep animals overnight on the premises. I also note that the two animal wards proposed are located to the east of the building, fronting onto Rathgar Road, and away from the residential properties on Wesley Road. Given the nominal scale of the proposed veterinary clinic, I would accept that there is little potential for barking dogs, or other noises arising from the proposed facility, to be so significant as to negatively affect the existing residential amenities of the area.
- 7.3.2. With regard to the operational hours, and in particular condition 9 of the PAs decision to grant permission from 08.00 – 20.00 Monday to Saturday and 10.00 – 17.00 on Sundays and Bank Holidays, given the previous and permitted use of the site, I do not consider that this is unreasonable. The building has a commercial use attached to it and I would consider it inappropriate to withdraw this flexibility by restricting the hours of operation further. Should the Board be minded to grant permission, I recommend that condition 9 be included in any decision.

- 7.3.3. With regard to the concerns raised in relation to fouling on the footpaths outside of the building, and the potential for customers to wait outside the building, I note the response of the applicant. I would agree that the reception area proposed offers ample space to facilitate waiting clients and I also acknowledge that the clinic will be operated on an appointment schedule. I understand the common practice for veterinary clinics is to provide poop bags should the need arise, and disposal of this waste is generally facilitated within the practice. I have no objections in this regard.
- 7.3.4. The Board will also note the applicants' submission in relation to waste management. I am satisfied that the nature of the facility will have standard practices and procedures in place for any medical waste arising.
- 7.3.5. Overall, and having due regard to the concerns raised in the third-party appeals, I am generally satisfied that the proposed development is acceptable in the context of the zoning of the site as well as the existing uses in the vicinity of the site.

7.3.6. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are located approximately 4.5km to the east of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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**

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the provisions of the Dublin City Development Plan 2016-2022, and to the established commercial use of the property, it is considered that, subject to compliance with the conditions set out below, the proposed change of use to a veterinary clinic would not materially contravene the Z1 zoning objective afforded to the site, would not seriously injure the residential or visual amenities of adjoining properties 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. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

3. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of the visual amenity of the area.

4. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area

5. The veterinary clinic shall be restricted to the following opening hours;
0800 – 2000 Monday to Saturday
1000 – 1700 Sundays and Bank Holidays

Reason: In the interests of protecting the residential amenities of the area.

6. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and organic waste, 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: To provide for the appropriate management of waste and, in particular recyclable and organic materials, in the interest of protecting the environment.

A. Considine
Planning Inspector
25/05/2021