



An
Bord
Pleanála

Inspector's Report ABP-309905-21

Development	Permission for change of use from a restaurant to GP surgery, and proposed alterations to the front elevation.
Location	9c Weaver's Row, Clonsilla Road, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW20A/0166
Applicant(s)	Tom Ginnety Pharmacies Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	First Party v Condition
Appellant(s)	Tom Ginnety Pharmacies Ltd.
Observer(s)	None.
Date of Site Inspection	6 th of July 2021.
Inspector	Stephanie Farrington

1.0 Site Location and Description

1.1. The appeal site is located at Unit 9c Weaver's Row, Clonsilla Road, Dublin 15. The unit is currently vacant and forms part of a terrace of 2 storey commercial units which are located on the southern side of Clonsilla Road. Vehicular access to the units is provided from Clonsilla Road and parking is provided to the front and to the east of the units.

2.0 Proposed Development

2.1. The proposed development comprises change of use from existing restaurant to GP surgery and proposed alterations to the front elevation.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council issued a notification of decision to grant permission for the proposed development subject to 7 no. conditions. The grounds of appeal relate to Condition no. 3 (a) of the permission which outlines the following:

Condition no. 3 – Prior to the opening of the proposed survey, the developer shall submit the following for written agreement of the planning authority:

(a) A revised site layout plan which illustrates the provision of 3 car parking spaces, one of which shall be reserved for persons with impaired mobility, which are designated for the use of the surgery.

(b) Details of cycle parking stands to be provided including the number of spaces.

Reason: To protect the amenities of the area and in the interest of the amenity of users of the proposed surgery.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planners Report (dated 30th of November 2020) recommends a request for further information in relation to proposed car parking and cycle parking provisions. The following provides a summary of the points raised:

- The proposed use is permitted in principle under the TC zoning objectives.
- Cross reference is made to the report on file from the Transportation Planning Section which recommends a request for further information.
- The proposed design will not impact unduly in a negative manner on the visual amenity of the property in the area.
- Having regard to the nature of the proposed development and the location of the subject site and/or proximity to the nearest European site no appropriate assessment issues arise.

Planner's Report (dated 11th of March 2021) recommends a grant of permission. The following provides a summary of the points raised.

- A summary of the applicant's response to the request for further information is provided. Reference is made to the case made by the applicant that no additional parking is required to serve the proposal.
- It is stated that the proposed development is acceptable subject to planning condition relating to the provision of parking for the proposed medical surgery.

3.2.2. Other Technical Reports

Transportation Planning Section (Initial Report dated 8th of October 2020): A request for further information is recommended in relation to car parking provision for the proposed development.

Transportation Planning Section (Report on Additional Information): This report outlines that the applicant's response to the request for further information is acceptable given the location of the site on lands zoned for Town and District Centre and a reduction in the maximum parking allowance is deemed acceptable. The Transportation Planning Section have no objection to the proposal subject to the following condition: 3 no. spaces shall be designated to the GP surgery and one of the spaces shall be a mobility impaired space.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

The following planning history relates to the site:

- PA Ref. FW19A/0078 – permission granted in August 2019 for change of use of the premises from a restaurant to a pharmacy and associated works.

5.0 Policy Context

5.1. Development Plan

5.1.1. The site is zoned for Objective TC (Town Centre) purposes within the Fingal County Development Plan 2017-2023. This objective seeks to *“protect and enhance the special physical and social character of town and district centres and protect and/or improve urban facilities”*. Health Centre is listed as a use which is “permitted in principle” of lands zoned for TC purposes.

5.1.2. The vision for TC zoned lands as set out within the development plan seeks to: *“Maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these Centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these Centres in accordance with the principles of urban design, conservation and sustainable development. Retail provision will be in accordance with the County Retail Strategy, enhance and develop the existing urban fabric, emphasis urban conservation, and ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car based traffic. In order to deliver this vision and to provide a framework for sustainable development, Urban Centre Strategies will be prepared in accordance with the Urban Fingal Chapter objectives”*.

- 5.1.3. The site is located within an area designated for an Urban Framework Plan.
- 5.1.4. Clonsilla is designated as a Level 4 retail centre within the Fingal Retail Hierarchy as set out within Table 6.1 of the County Development Plan. The proposed use is listed as a use which is acceptable in Level 4 centres.
- 5.1.5. Car parking standards are set out within Table 12.8 of the Fingal County Development Plan 2017-2023. This sets out a parking requirement of 2 parking spaces per consulting room for clinic and group medical practices.
- 5.1.6. The guidance for parking standards as set out within the Development Plan outlines that: *“In mixed use developments, the car parking requirement will take account of different uses having peak parking demands at different times of the day and week”*. The guidance furthermore outlines that *“One space or more per 100 spaces should be reserved for disabled parking bays”*.

5.2. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal was submitted in respect of Condition 3 (a) of Fingal County Council’s notification of decision to grant permission for the development. The following provides a summary of the issues raised.
- There is sufficient existing shared parking at the development to support the change of use.
 - Reference is made to the Transportation Planning Report on file which outlines that “the intensification of 1 parking space would not be significant”.
 - The site is located in parking zone 1 where reduced parking standards apply.
 - Expansion of the existing parking is not possible at the Weavers Row development.

- The applicant requests a condition in lieu of additional parking space if reduced parking provision is not conceded in accordance with Objective DMS114 of the Fingal County Development Plan 2017-2023.

6.2. Planning Authority Response

6.2.1. Fingal County Council provided a response to the grounds of appeal. The following provides a summary of the points raised:

- Reference is made to the two reports from the Transportation Planning Section which address the issue of car parking provision for the proposed development.
- The provision would give rise to a maximum demand of 6 no. spaces. The provision of 3 no. spaces to serve the proposed surgery was deemed acceptable. Condition no. 3 was attached to ensure availability of these spaces during the operating hours of the surgery.
- The Board is requested to uphold the decision of the Planning Authority.

6.3. Observations

- None

6.4. Further Responses

- None

7.0 Assessment

7.1. This is a first party appeal in relation to Condition no 3 (a) of Fingal County Council's notification of decision to grant permission for change of use of 9c Weavers Row, Clonsilla from a restaurant to a GP surgery and associated elevational amendments. Condition 3(a) relates to parking provision to serve the development and outlines the following:

“Condition no. 3 – Prior to the opening of the proposed survey, the developer shall submit the following for written agreement of the planning authority:

A revised site layout plan which illustrates the provision of 3 car parking spaces, one of which shall be reserved for persons with impaired mobility, which are designated for the use of the surgery”.

- 7.2. Having regard to the nature and scale of the proposed development and the nature of Condition no.3 (a), it is considered that the determination by the Board of the application, as if it had been made to it in the first instance, would not be warranted. I consider, therefore, that the appeal should be dealt with in accordance with Section 139 of the Planning and Development Act 2000 (as amended).
- 7.3. The appeal site forms part of a parade of commercial premises at Weavers Row. The proposal seeks change of use from the existing unit from restaurant to GP surgery. At present the existing parade of units at Weavers Row are served by a shared parking arrangement to the front of the units and to the east of the access road. The subject matter of the appeal relates to parking provision to serve the development. Parking standards are set out within Table 12.8 of the County Development Plan this sets out a requirement for 2 parking spaces per consulting room. The proposed development comprises 3 no. consulting rooms and on this basis a total of 6 no. car parking spaces could be provided to serve the development.
- 7.4. Details of parking provision to serve the development were requested by Fingal County Council within the request for further information issued in December 2020. In responding to the FI request the applicant provided clarification that car parking to the existing mix of uses on site is shared. Parking spaces are provided to the front for the commercial units on site, to the east of the access road and within a separate car park to the south of the units. The applicant’s response to the FI request includes a survey of the use of the existing parking undertaken during peak hours (4.30pm on Friday evening). The parking survey demonstrates parking capacity during peak hour periods. On this basis, the case is made that sufficient parking is available to accommodate the proposed change of use.
- 7.5. In considering parking requirements to serve the development, I note that the site is located within the centre of Clonsilla village and within walking distance of a large residential area. The site is furthermore well served by public transport connections. On-site inspection, I note that there are 8 no. car parking spaces provided to the front of the retail units to the east of the appeal site as illustrated on Drawing no. BP-

01 prepared by Willow Retail Interiors. An additional 2 no. parking spaces are demarcated to the front of Unit 9(c) as illustrated within the attached presentation document. Furthermore, the total land ownership, as indicated by the blue line boundary, extends to include a car park to the south of the existing commercial units. This car park accommodates an additional 7 no. parking spaces. Additional informal parallel parking is available to the east of the access road as illustrated within the attached presentation document and to the west of the unit outside the existing pharmacy unit to the west of the site.

- 7.6. On-site inspection, I note that there was a high turnover of parking particularly associated with trips to the Spar retail unit. The spaces to the front of the commercial units and to the east of the access road were frequently occupied. However, I note that there remained capacity for additional parking and observed no overspill or significant queuing at the entrance from Clonsilla Road. I observed limited turnover of trips to the spaces within the car park to the south of the unit. A separate access to this car park is provided further west of the parade of units. On the basis of the above, I note the shared parking arrangements for the existing commercial units on site and consider that at present there is adequate parking to serve the proposed change of use.
- 7.7. A case is made within the first party appeal that there is no potential for provision of additional parking spaces to serve the proposed change of use application. While I accept the applicant's case in this regard, I note that Condition no. 3 (a) does not seek to increase the overall provision of parking at this location. I refer to the correspondence from Fingal County Council in response to the 1st party appeal which outlines that *"the development would give rise to a maximum demand of 6 spaces, one more than the existing use of the premises as a restaurant. The provision of 3 spaces to serve the proposed surgery was deemed acceptable and condition No. 3 was attached to ensure availability of these spaces throughout the opening hours of the surgery by patrons who may have mobility difficulty or require transport by car"*. This clarifies that no additional parking over and above that currently present on site is required by Condition no. 3(a).
- 7.8. The requirements of Condition 3 (a) seek the exclusive reservation of 3 no. parking spaces for the proposed GP surgery use during its hours of operation and stipulates that one of these spaces shall be reserved for mobility impaired users. While in

general terms, I do not consider the requirements of this condition to be overly onerous, I do not consider it to be necessary and consider that it would prove difficult to enforce. As demonstrated within the application documentation there is sufficient parking available at peak times to cater for the existing mix of uses at this location. In this regard I consider that there is sufficient parking on site to accommodate the proposed change of use.

- 7.9. I refer to Section 7.3 of the Development Management Guidelines in this context which sets out basic criteria for conditions and in this regard and in particular the guidance set out under Section 7.3.1 which stipulates that “conditions should be necessary”. The Guidelines provide the following guidance in this context:

“One useful test of need is whether, without the condition, either permission for the proposed development would have to be refused, or the development would be contrary to proper planning and sustainable development in some identifiable manner. It is not enough to be able to say that a condition will do no harm: if it is to be justified, it ought to do some good in terms of achieving a satisfactory standard of development and in supporting objectives of the development plan”.

- 7.10. In the instance of the proposal where the parking situation is shared between a mix of uses, there is parking capacity during peak times and I see no increase in the intensity in use of parking as a result of the proposed change of use of the premises I consider that Condition 3 (a) is not necessary. I do not consider that the proposal would have to be refused in the absence of this condition. I therefore recommend the removal of Condition 3(a).

8.0 **Appropriate Assessment**

- 8.1. Having regard to the nature and small scale of the proposed development and the distance from 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.

9.0 Recommendation

- 9.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the Planning Authority under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to REMOVE Condition no. 3 (a).

10.0 Reasons and Considerations

REMOVE part (a) of Condition 3

Having regard to the existing parking provision, the nature of the proposed change of use application, and to the pattern of development in the area, it is considered that the proposed change of use from Restaurant to GP surgery would not result in parking provision over and above that currently provided at this location and the existing parking arrangement is adequate to cater for the proposed change of use. The requirements of Condition 3(a) are not considered necessary in this regard.

Stephanie Farrington
Senior Planning Inspector

7th of July 2021