



An
Bord
Pleanála

Inspector's Report 310150-21

Development	Change of use from medical suite to retail pharmacy/dispensary unit at Listowel Primary Care Centre.
Location	Curraghatoosane, Listowel, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/1179
Applicant(s)	Greenville Primary Care Ltd.
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third Party
Appellant(s)	Listowel Pharmacists Group
Observer(s)	None
Date of Site Inspection	25 th October 2021
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located at Convent Road to the west of Listowel Town Centre. Convent road is a suburban road with a mix of uses including Presentation Secondary School, a funeral home, the new Primary Care Centre and a mix of housing estates and one-off houses. The road follows the line of the River Feale, which flows to the south and Listowel Racecourse is located on the southern side of the river. The site is located approx. 500m from the main shopping street (William Street). The lands to the immediate east are occupied by the secondary school and associated convent, with a primary school to the rear, while the lands to the west include Listowel Community Hospital, Writer's Grove (a Mental Health Service residential facility) and there is a nursing home (Aras Mhuire) to the rear of the residential facility. There is a wooded riverside area immediately opposite the site with a layby on the street, and there is a funeral home to the west of the layby.
- 1.2.** The site forms part of a recently constructed Primary Health Care Centre, following the grant of permission under Reg. Ref. 12/404008, and as amended under Reg. Ref. 19/1151 and 19/620, respectively. It is a two-storey, long, narrow-fronted building which has a 2-storey annex projecting from the eastern elevation. It is set c.30m back from the public road with a carpark in front and along the side of the building. The ground floor southern elevation is glazed. The permitted building, with a floor area of 1,952m², contains HSE Primary Care Facilities at Ground and First Floor levels. The facilities comprise a mix of consulting rooms, treatment rooms, offices and interview rooms. The permitted development also includes 51 car parking spaces, (later increased to 68 spaces). Vehicular access is gained to the car park from Convent Road.
- 1.3.** The unit in question is shown on the permitted floor plans as a Medical Suite, which is located on the ground floor at the front of the building. It comprises consulting rooms for 6no. GPs with associated reception area, nursing stations etc. It has a stated floor area of 242.5sq.m and has a glazed frontage. However, the floor area of the proposed pharmacy unit is 126.5m², with a floor area of 116m² remaining as medical suite use. The floor plans show that the remainder of the ground floor is assigned as GP clinics or clinical assessment rooms.

2.0 Proposed Development

- 2.1.** It is proposed to change the use of part of the medical suite at the front of the building on the ground floor to a Retail Pharmacy unit including a dispensary and retail sales area. The unit would occupy the southern part of the building with access gained via an existing door on the southern elevation. The layout of the unit shows the dispensary on the western side, the main sales is located at the eastern end at the front. The remainder of the unit comprises a consultation room and an Accessible WC. The main entrance would be from the carpark on the southern side with an additional door leading to the stair core.
- 2.2.** The previously permitted 'medical suite' at the southern end of the building comprised 6 no. consulting rooms, three nursing rooms, a reception area and waiting area, a tea station, toilets and a cleaner's room. The proposal would result in the loss of three of these consulting rooms, one of the nursing rooms, the GP related toilets, tea station and cleaner's room. The original medical suite had also included part of the stair core of the building, but it is noted that no access was provided to the accommodation the subject of the current application/appeal. The proposed development proposes to introduce an internal access doorway from the stair core into the retail pharmacy unit.
- 2.3.** The proposed development includes a proposal to erect new signage on the southern elevation which would be illuminated.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 5 no. conditions. These were generally of a standard type and included the following conditions of note:-

- Condition 2 required payment of a development contribution of €1644.50.
- Condition 4 prohibited any further signage without permission.

- Condition 5 stipulated that a Change of Use shall not take place unless otherwise permitted by a further permission notwithstanding the Exempted Development provisions of the Act.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Area Planner's report (05/02/21) outlined the planning history and noted that the governing permission 12/404008 had been granted subject to a number of conditions, for a new Primary Care Centre consisting of a General Practitioners Care Centre, a medical suite, public entrances to the ground floor and 50 parking spaces. Subsequently, permission was granted for extension of duration and for certain alterations and revisions, prior to completion of construction. These included additional windows at ground and first floor levels, a 2-storey extension to provide for additional medical suites and accommodation.

3.2.3. It was noted that the site is zoned M4 Built up area, and that the proposed change of use is open to consideration. The Area Planner referred to the 3 no. objections, including one from the appellant, and acknowledged the concerns raised. It was considered that the site is located within a built-up area which includes a hospital and several other medical and community uses. It was considered that having a pharmacy on the site of a Primary Health Care Centre, as an ancillary use was justifiable and that it would not undermine retail policy.

3.2.4. Other Technical Reports

Area Engineer's Report – no objection.

County Archaeologist – no objection.

3.3. Prescribed Bodies

Irish Water – no objection subject to conditions.

3.4. Third party observations

Three submissions received including one from the appellants. Much of the content of the submission is similar to that set out in the grounds of appeal. The main points may be summarised as follows:-

Adverse impact on the viability and vitality of the Town Centre – the town centre has suffered recently with permanent shop closures which has had a negative effect on the amenity of the central area. Listowel has a very high percentage of vacant units and The Square has recently lost the Ivy GP practice which has moved to the Primary Care Centre. There are 6 pharmacies in the town which are geographically spread, and the vitality of the town centre is intrinsically linked to these pharmacies. These established pharmacies are part of the community and customers of the pharmacies tend to shop within the town centre, with associated beneficial effects on other businesses in the town. The proposed pharmacy within the new Primary Care Centre, which would be located c.500m outside the town centre, would undermine the viability of these businesses and risk their closure with adverse consequences for the viability and vitality of the town centre.

Contrary to terms of original planning permission – the change of use to a retail unit would contravene condition 2 of the original planning permission in the Board's decision under 240854 which stipulated that the use of the proposed development shall be restricted to Primary Care Centre unless otherwise authorised by a grant of planning permission. The parking would also need to be reassessed.

Contrary to the Retail Strategy – The proximity of the unit to a PCC and its sharing of a free and convenient car park would bestow a competitive advantage which would have an adverse impact on the viability of similar retail units in the town centre. This would be contrary to the Retail Strategy in the Development Plan. Objective 3 of the Retail Strategy for Listowel (KCDP) seeks to actively promote the vitality, viability and vibrancy of Listowel Town Centre as the primary focus for retail and associated commercial activity. It would also be contrary to the Retail Planning Guidelines.

Impact on new bypass not assessed – the impact of the proposed bypass which will be built adjacent to the unit has not been assessed.

3.5. Further Information received 8th March 2021

FI was submitted on 08/03/21 which clarified that the medical suite that is subject to the change of use application has not been previously occupied. The second item provided further details of the proposed signage which includes a fascia sign and a projecting pharmacy cross sign. This information was readvertised. No further submissions were received by the P.A.

4.0 Planning History

PL67.240854 (12/404008) – permission granted by Board following third party and first party appeals and extended under 12/494008 for the construction of a Primary Health Care Centre (1952m²) in February 2013. It was implemented in 2019.

Permission was granted subject to 13 no. conditions, which were generally of a standard type. Condition 2 reads as follows

2. The space designated 'provisional medical suite' shall be used for the purposes stated in the further information documentation submitted to the planning authority on the 30th May 2012.

Reason: In the interest of clarity.

It should be noted that the letter referred to in the Board's condition 2 stated that the provisional medical suite would be used for additional General Practitioners. This space is on the ground floor on the eastern section which projects from the main building line.

19/620 – Permission granted for modifications including new windows at ground and first floor levels, replacement of permitted door with a window, reduction of parapet height, reduction of number of rooflights and minor modifications to southern façade. Condition 2 required compliance with governing permission. Note – construction had commenced on site at time of assessment/determination.

19/1151 – Permission granted for a 2-storey rear extension to the primary care centre to accommodate additional medical suites. Floor area of proposed extension

increased from 400m² to 620m² during course of application. 17 additional parking spaces provided. Note construction on site substantially complete according to planner's report. Conditions of a standard type.

5.0 Policy Context

5.1. Retail Planning Guidelines 2012

These guidelines seek to ensure that the planning system continues to play a key role in supporting competitiveness in the retail sector for the benefit of the consumer in accordance with the proper planning and sustainable development. In addition, it is required that the town planning system promotes and supports the vitality and viability of city and town centres thereby contributing to a high standard of urban design and encouraging a greater use of sustainable transport. It is stated that the planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation.

5.2. Kerry County Development Plan 2015-2021

The aim of the **Health Services – (Section 9.7)** is

To seek to facilitate the provision and expansion of built facilities at appropriate locations to ensure accessible health care facilities are integrated into communities throughout the County.

Policy SC-40 – encourages the integration of healthcare facilities within communities and for agencies to provide appropriate healthcare facilities, including hospital care and community-based primary care throughout the county.

Relevant retail policies include:

RS-2 – Ensure that the provision of additional retail floor space is compatible with the scale, character and function of the overall retail centre and contributes to viability and vitality of each settlement.

RS-3 - Support sustainable retail development in appropriate locations, where the scale of the development is compatible with the role and function of settlements as set out in the core strategy and in line with the retail hierarchy.

Para 6.5.6 Listowel

It is stated that Listowel is the third largest urban centre in Kerry and is a Tier 4 retail centre. It is an important services and retailing centre with a good mix of smaller scale comparison and convenience goods to cater for its hinterland population.

However, a problem with the vacancy rate in recent years is highlighted –

“In recent years the scale of vacant units within the town has increased significantly with more than 26% of retail units in the town centre unoccupied. However, it is clearly disguised by the upkeep and good maintenance of shopfronts and buildings.”

5.3. Listowel Town Development Plan 2009 (as varied and extended)

Site is located within the Development Boundary for Listowel. It is zoned M4 Built-up Area – Mixed Use. This zone supports in general the primary land use of surrounding existing built-up area. Development that threatens the vitality or integrity of the primary use shall not be permitted. A ‘Shop’ and a ‘Medical Service’ are both open to consideration.

Listowel Retail Policies (7.5)

Policy 1 Town Centre - Facilitate and encourage the consolidation and improvement of retailing and other town centre activities in Listowel Town Centre to enable the development of its key role as a key Regional Centre and to promote the concept of an attractive and sustainable ‘compact town’.

Policy 2 Core Retail Area – Resist the loss of convenience or comparison floor space within the core retail area.

Retail Regeneration (7.4)

Listowel has faced considerable difficulties over the years to retain vibrancy and vitality in the face of challenges such as vacancy, dereliction and edge of town retail development, which weaken the town centre and associated retail mix.

Vacant Units (7.3.8)

Following the Listowel Town Centre Health check (2017) the vacancy rates (which had previously been recorded in the 2008 Retail Health Check as 6.5%) had risen to

9% overall. However, the vacancy rates on William Street and Upper Church Street were identified as being particularly problematic.

Parking requirements

Shop – 1 space /25m² GFA

Clinic – 1 space – staff

4 spaces – consulting rooms

5.4. Natural Heritage Designations

Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161) – lies approx. 11.5km to the east.

Moanveanlagh Bog SAC (002351) lies approx. 6km to the east.

Lower River Shannon SAC (002165) lies approx. 150m to the south.

River Shannon and River Fergus Estuaries SPA (004077) lies approx. 12km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appeal is from Listowel Pharmacists Group. The main points raised may be summarised as follows:

- 6.1.1. Impact on vitality and vibrancy of Listowel Town Centre** – the proposed change of use will have a serious, long-term adverse effects on the vitality and vibrancy of the town centre. It is contrary to the Retail Planning Guidelines and to the objectives of the Listowel Town Development Plan ‘to actively promote the vitality and viability and vibrancy of the Listowel Town Centre as the primary focus for retail and associated activity’. As noted in the Development Plan, in recent years Listowel TC has experienced a significant increase in vacant units, with more than 26% of the retail units unoccupied, which was the highest of all of the Regional towns, apart from Caherciveen. The proposed development is likely to result in the relocation of one of the pharmacy businesses from the Town Centre, with the associated negative

impacts of its loss to the vibrancy of the TC. In addition, it would result in a significant competitive advantage over the remaining pharmacies in the TC, resulting in the likely closure of some of these businesses, which would compound the damage to the TC and would be contrary to the Development Plan objectives and to the RPGs.

- 6.1.2. Impact on sustainability of the townscape of Listowel TC** – Listowel is designated as a Heritage Town and the town centre has a significant heritage value, which is designated as an Architectural Conservation Area. Objective BHUD 19 of the Listowel Town Development Plan seeks ‘to protect and enhance the special character of the Architectural Conservation Area’, which would be contravened by the proposed development. The shopfronts of the existing pharmacies in the town would make a significant contribution to the special character of the historic streets which make up the ACA. The P.A. has paid scant regard to the likely impact of the loss of businesses occupying such properties on the 19th century fabric of the historic core, upon which the commercial viability is dependent.
- 6.1.3. Sustainability** – The proposal will encourage and facilitate car-based travel at the expense of more sustainable travel modes in Listowel. The proposed retail pharmacy is located 500m from the retail core and is not within easy walking distance of same, which requires negotiating a busy junction. The proposed development would be serviced by a large car park which would encourage car use at the expense of other modes and at the expense of the town centre. There is no town bus in Listowel.
- 6.1.4. Relationship between proposed use and PHC** – it is submitted that the proposal may facilitate an unhealthy commercial relationship to arise between a pharmacy and other commercial elements on the Primary Care Centre site. Retail pharmacies are not an integral component of the PCC model of the HSE, notwithstanding the increasing trend. Both the HSE and the Pharmaceutical Society of Ireland (PSI) are aware of potential public health risks arising from the co-location of primary care centres and retail pharmacies. Reference is made to two HSE guidance documents on the matter and to the PSI guidelines. It is pointed out that the HSE requires that pharmacies have their own entrances separate from the entrance to the PCC, which in this case is negligible.

6.2. First Party Response

The First Party's agent responded to the grounds of appeal on 1st June 2021. This was mainly in the form of a rebuttal of the grounds of appeal. However, the following points are worthy of note:

- **Commercial competition** – The appellants are a local group of pharmacists in the town centre. No objections have been made by other businesses in the town. It is submitted that the true motives of the appeal are commercial competition. The RPGs require an assessment of any adverse impacts on the vitality and vibrancy of the town centre and not on existing traders. To refuse permission for the proposed development would be to inhibit competition, preserve existing commercial interests and prevent innovation.
- **No serious impact on vitality and vibrancy of Town Centre** – The applicant is in negotiations with an existing pharmacist in the town who is looking to expand his business. It would not result in the closure of any businesses and would generate additional employment in the town. The PCC is a regional facility which serves North Kerry. The use is completely in accordance with the zoning objectives for the site and with the nature of the surrounding uses, which are primarily community and health related.
- **Pharmacy unit appropriate addition to PCC** – the pharmacy will provide a valuable service to complement the services available within the PCC. The locational advantage is grossly overstated as GPs can email the prescription to a pharmacy of the patient's choice. The first party response includes an appendix with several examples of PCCs with pharmacy retail units which are outside of town centres.
- **Impact on the historic centre** – the argument that the proposed development will give rise to business closures which in turn will have a detrimental impact on the ACA is unfounded and grossly exaggerated. The appeal site is not within the ACA and the proposed development cannot be said to contravene the relevant policies for the preservation of the ACA.

- **Sustainability of development and facilitation of car-based travel** – this is refuted. It is further stated that the proposed development will facilitate those travelling by car from the wider catchment, where there is no public transport service. It is submitted that the parking requirement for the pharmacy is the same as that for the permitted medical suite that it would replace and that adequate parking provision has been made for the proposed change of use, which is in compliance with the standards in the development plan. There is good pedestrian connectivity with the Town Centre.
- **Relationship between pharmacy and PCC** – it is submitted that the proposed pharmacy has a separate entrance and is fully compliant with HSE requirements. The co-location of pharmacies and PCCs would lead to a more holistic approach to patient care. Pharmacists will have an increasing role in primary care. The proposed development will minimise the need to travel for patients visiting the PCC and would be convenient for sick and elderly patients.
- **Planning Precedents** – The Board has previously upheld similar decisions in Bray, Co. Wicklow (PL27.245283) and in Thurles, Co. Tipperary (PL92.302913). further examples are provided in appendix A which demonstrates that pharmacies can locate outside town centres without having an adverse effect on the vitality and vibrancy of the retail core.

6.3. Planning Authority Response

The Planning Authority has not responded to the grounds of appeal.

7.0 Assessment

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

- Compliance with policy objectives for area
- Impact on Listowel Town Centre
- Restrictions on use
- Parking provision and sustainable travel

- Environmental Impact Assessment
- Appropriate Assessment

7.2. Compliance with policy objectives for the area

7.2.1. The site is zoned M4-Built-Up Area – Mixed Use in the Listowel Town Development Plan 2009 (as varied and extended). A retail ‘shop’, which would include a pharmacy as proposed, is ‘Open to Consideration’ in this zone. In general, the zone should support the primary land use of the surrounding existing built-up area. Although the area in general is suburban in character, there is a hub of community and health related uses in the immediate vicinity of the site. These uses include the community hospital, a nursing home, a residential care home and a day centre. Thus, it is considered that the proposed change of use would generally be consistent with the surrounding uses and would be compatible with the Primary Care Centre, of which it would form a part.

7.2.2. The permitted use of the site as a Primary Healthcare Centre, (originally granted in 2012), has been amended by virtue of two subsequent permissions in 2019. The first of these (19/620) sought minor modifications to windows, rooflights etc., but also confirmed that the large area within the projecting annex (ground floor) to the east, labelled ‘Medical Suite’ would be laid out as a further GP group practice area, (although no layout was provided). The second amending permission (19/1151) was for a rear extension and did not affect the permitted layout of the remainder of the building. The current proposal would replace half of one of the ‘medical suites’ and replace 3 no. consulting rooms and a nursing station with the pharmacy. However, a revised layout for the remainder of the ground floor has not been provided.

7.2.3. The HSE guidance on what constitutes ‘primary care’ which is available on the HSE website indicates

“A Primary Care Team is a multidisciplinary group of health and social care professionals A typical P.C.T consists of GPs, nurses, home helps, physiotherapists and occupational therapists.....The healthcare professionals share information and respective skills to ensure that patients with the greatest need receives care.”

It is clear that that the inclusion of a general medical practice(s) is a fundamental and integral part of the PCC model. As such, the proposed change of use should not undermine the operation and functioning of the PCC by diluting or minimising this element of the overall use, or by displacing it by stealth.

- 7.2.4.** There is some uncertainty regarding the number of GP clinics that would be accommodated within the revised layout and how the proposed pharmacy would interact with these services. I would estimate that the remaining space assigned to 'medical suites' in the permitted floor plans would facilitate a maximum of 6 to 7 GP consulting rooms on the ground floor. The permitted floor space in the remainder of the building is intended to provide other health and social services such as physiotherapy, speech therapy, occupational therapy. This is consistent with the HSE guidance on primary care centres as stated above.
- 7.2.5.** Given the lack of information on the revised layout should the pharmacy unit be permitted, it is important to ensure that there would be no further loss of medical/GP floorspace within the original medical suites and that the floor area to the rear of the pharmacy unit will not be used as part of the pharmacy retail unit, whether for storage or for retail sales. However, should the Board be minded to grant permission, it is considered that a condition could be attached to any such permission requiring that revised plans be submitted to the planning authority specifying the uses of the remaining floorspaces on the ground floor for the sake of clarity. The specified mix of uses and quantum of floorspace should be adhered to save with the grant of a further planning permission.

7.3. Impact on Listowel Town Centre

- 7.3.1.** Listowel Town Plan (2009 as varied and extended) places a great deal of emphasis on the importance of the heritage value of the town centre and the regional town status of Listowel, with its associated retail function. The retail policy for the area is to protect the vitality and vibrancy of the town centre, which includes directing retail uses in the first instance to the town centre. The Retail Core Area extends along William Street and Market Street. The retail policy clearly states that only when the options available in the Town Centre/Retail Core Area are exhausted should an Edge of Centre/Out of Town Centre be considered. This is consistent with the Government's Retail Planning Guidelines.

7.3.2. It is noted that when the Listowel Town Development Plan was first adopted, reference had been made to the 'Retail Health Check' carried out in 2008. At that time, the vacancy rate was stated to be c.6.5%, which was considered to be comparatively low. The town centre was described as being a vibrant retail centre displaying a high level of vitality and viability, which was based on a variety of key indicators such as the diversity of uses, retail representation, accessibility, physical structure and environmental quality. The retail surveys did, however, note that despite the attractive retail location, there was a problem with accessibility and parking due to traffic congestion. However, in the extended and varied version of the Plan, reference is made to the Retail Health Check (2017) whereby the retail vacancy rate in the Town Centre/RCA had increased significantly (to 26%) which was described as 'problematic'. At 7.4 it is stated

“Listowel Town has faced considerable difficulties over the years to retain vibrancy and vitality in the face of a number of challenges including edge of town shopping..... Listowel Town Centre needs to build on its strengths from a social, cultural, heritage and economic perspective, strengthen its own identity, town centre experience and offering to secure its future.”

7.3.3. The appellants, who are a group of existing pharmacists in the town centre, have argued that the proposed change of use would have serious and long-term adverse effects on the vitality and vibrancy of the TC, as it would result in the loss/closure of existing pharmacy businesses. As such, the proposed retail pharmacy use, it is stated, should be located in the town centre. It is further argued that the vibrancy and vitality of the Retail Core Area is strongly linked to the heritage value of the town centre, which depends on high retail occupancy rates, especially in the shops with historic shopfronts, and that the established pharmacies comprise several such units. It is stated that the Town Plan includes policy objectives such as BHUD which seeks to protect and enhance the special characteristics of the Architectural Conservation Area, which covers the retail core area. Furthermore, it is argued that the pharmacy businesses draw other retail business into the town centre with multi-trip shopping visits and the loss of one or more of these businesses would have a significantly detrimental effect on the retail health and vibrancy of the retail core area.

7.3.4. I would accept that the retail environment in Listowel town centre is not as vibrant as it was in the past and that changing consumer behaviour, together with the

introduction of out of town or edge of town shopping opportunities present a very significant challenge for the protection and enhancement of both the retail and the historic environment in the town core. Higher vacancy rates can also have a contagion effect and it is difficult to maintain an appropriate balance. It is noted that the development plan (as extended and varied) places emphasis on regeneration and the identification and progression of opportunity sites as part of the strategy to turn the central area around. The Retail Planning Guideline stress that the planning system should not be used to inhibit competition or preserve existing commercial interests. In addition, when the issue of trade diversion is being considered, P.A.s and the Board are required to assess the likelihood of any adverse impacts on the vitality and viability of the town centre as a whole, and not on existing traders.

- 7.3.5.** In light of the foregoing, it is considered necessary to examine whether the proposed use, by itself and/or by the precedent it might set, would be likely to divert a sufficient level of trade that would lead to business closures and increased vacancy rates in the town centre. I note that no evidence to this effect has been provided by the appellants. The proposed pharmacy unit is quite small with 126.5sq.m in total available. Within this space, the unit will also absorb a disabled access WC and a consulting room, as well as the area for dispensing medicines, with little space available for the display and retailing of other goods (approx. 50sq.m). Thus, the nature and scale of the use is such that it would be unlikely to compete at a significant level with existing pharmacies in the town centre. It is considered, therefore, that there is insufficient evidence to demonstrate that the vitality and vibrancy of the Town Centre would be adversely affected, as there is little likelihood that any significant level of trade would be diverted from the existing pharmacies and/or other businesses in the town centre.

7.4. Restrictions on the use

- 7.4.1.** The appellants have raised issues relating to requirements of the Pharmacy Act 2007, such as restrictions on pharmacies and medical practices in the same premises, which it was believed could give rise to the potential for 'unhealthy relationships' between the pharmacy and the Primary Care Centre.
- 7.4.2.** The formal guidance provided by the Pharmaceutical Society of Ireland states (3.1.1 PSI Guidelines for Retail Pharmacy Businesses) -

“Section 64 of the Pharmacy Act 2007 provides that a registered pharmacy business and a medical practice shall not be carried on in the same premises or in premises, which although separate, share access if there is an arrangement between the pharmacy owner or registered pharmacist and the medical practitioner, which provides for/acknowledges/regulates financial benefit to any of them arising from the co-location of the pharmacy and medical practice”.

The intention of this restriction appears to be to prevent co-location where the pharmacy and medical practice would be in the same ownership with mutual financial benefits. It is acknowledged, however, that pharmacy practice is a highly regulated area and that the operation and physical layout of the pharmacy unit, including its relationship with the overall primary care centre, is likely to come under the scrutiny of the PSI as part of the registration process.

- 7.4.3.** From a planning and land-use perspective, it is considered that the main objective here is to prevent a use which might undermine the retail policy for the area and/or be contrary to the CDP policies for the provision of community healthcare and the proper planning and sustainable development of the area. As such, the assessment of the appropriateness of the change of use under the planning code should be confined to the impact on the overall use for which the building/site is permitted (i.e. operation of a primary care centre) and to the retail impact on the town/town centre. As stated above, the inclusion of a GP service is a fundamental part of the PCC model, and provided that the proposed change of use would not undermine the operation and functioning of the PCC, it would be acceptable in principle. The impact on the town retail core was discussed in the previous section.
- 7.4.4.** In terms of the operation of the PCC, as stated previously, the submitted plans are somewhat unclear regarding the precise nature of the remaining uses within the medical suite that is to be altered and the floorspace that would be dedicated to the provision of GP services within the overall PCC. This should be addressed by means of a condition attached to any permission, as suggested above. It is further noted that the permitted layout (12/4008 PL67.240854) did not include any internal link between the southern medical suite and the stair core. It was clear from the planning reports and correspondence on file that there would be no direct access from the PCC to the unit that is now proposed as a pharmacy. However, the current proposal

does propose such a link, and there is no explanation or justification for such a link. It is considered that the provision of this link could give rise to merging of floor spaces in the future and should be required to be deleted.

- 7.4.5.** It is considered, therefore, that should the Board be minded to grant permission, a restriction should be placed on the floor space dedicated to the retail pharmacy use as shown on the submitted plans, that revised plans be provided setting out the remainder of the uses within the former 'medical suite' that is to be altered and that the internal link between the PCC floorspace and the retail unit be omitted. It is further considered that a condition should be attached to any such permission restricting the amalgamation of the unit with any other unit/floorspace without a prior grant of planning permission. These conditions would restrict the nature and scale of the use to one appropriate to this location in the interests of protecting the vitality and vibrancy of the town centre.

7.5. Sustainable development

- 7.5.1.** The appellants have also challenged the P.A.'s view that the proposed development would be more sustainable, given that many of the customers would be clients of the PCC, which would reduce car dependency. I would accept that the co-location of the PCC with other healthcare facilities and services which would present the option of having a prescription filled within the centre upon exiting a health service, this would be likely to reduce car-dependent travel journeys. Hence, it would contribute to more sustainable development patterns. Notwithstanding this, I would also accept the appellants' argument that the availability of free and plentiful parking outside the shop would be likely to encourage customers to travel by car to the unit, which could give rise to unsustainable travel patterns.
- 7.5.2.** I note, however, that the parking requirement (15.33.2 of Listowel Town Development Plan) for the proposed pharmacy unit is considerably less than that for the partial medical suite that it would replace. The proposed unit is required to provide 1 space per 25m² of GFA, which would require 5 spaces. The floor area that would be displaced, however, was to be laid out as 3 consulting rooms and a nursing station. The parking requirement in the Town DP is for 1 space for staff and 4 spaces for each consulting room (i.e. 13 no. spaces). The total parking provision for the PCC is stated as 68 spaces, which is comprised of 51 spaces for the original centre with a

further 17 spaces permitted (19/1511) to serve the permitted rear extension. The first party has argued that the proposed use would result in trips with patients using more than one service, which would further reduce the demand for parking.

7.5.3. The PCC is not yet fully completed and occupied on site and the unit that is the subject of the proposed change of use has not been occupied previously. On the basis of the foregoing, it is considered that should the Board be minded to grant permission, the parking provision should be reduced by 8 no. spaces to 5 no. spaces serving the proposed retail unit and these spaces should be clearly marked on the ground as being reserved for customers of the pharmacy. This would ensure that the proposed development was in accordance with the parking and sustainable travel policies contained in the development plan.

7.5.4. In conclusion, it is considered that the proposed change of use would generally be in accordance with the national and local policies to make such healthcare facilities more accessible to the communities that it serves and to promote development which is sustainable. There is insufficient evidence that the proposed development would divert trade from existing pharmacies in the town centre to such an extent that it would result in business closures. However, conditions should be attached to any permission restricting the change of use to the floor area proposed and reducing the amount of off-street parking to comply with the Development Plan Standards. The Irish Regulatory Framework for Retail Pharmacy will no doubt address issues relating to adherence to the requirements of the Pharmacy Act and other regulation. It is considered, therefore, that the proposed development would be in accordance with the retail and healthcare policies contained in the Development Plan, and with the proper planning and sustainable development of the area.

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 closest European site is the Lower River Shannon SAC (002165), which lies on the opposite side of the public road, approx. 150m to the south. The remainder of the European sites in the vicinity are located between 6km and 10km from the site. These include Moanveanlagh Bog SAC (002351), which lies approx. 6km to the east, Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161), which lies approx. 11.5km to the east, and River Shannon and River Fergus Estuaries SPA (004077) also lies c.12km to the north.
- 7.7.2.** The proposed project, which is not connected with the management of any of the European sites, involves a change of use of an existing established building. In light of the nature and small scale of the proposed development and given the distances involved, together with the fact that the site is located in an established area, on zoned and serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the provisions of the Retail Planning Guidelines 2012, the Kerry County Development Plan 2014 and the Listowel Town Development Plan 2009 (as varied and extended), to the previous planning history on the site, to the nature and scale of the development and to the existing pattern of development in this location, it is considered that subject to compliance with the conditions set out below, the proposed development would not adversely affect the vibrancy and vitality of Listowel Town Centre, would not seriously injure the amenities of the area, or of property in the vicinity and 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, as amended by the further plans and particulars submitted on the 2nd day of March 2021 and the 15th day of March 2021 and by the further plans and particulars received by the Board on the 1st day of June 2021, 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 proposed development shall be amended as follows:
 - (a) The internal door linking the pharmacy/dispensary unit with the remainder of the Primary Care Centre shall be omitted. No internal access between the pharmacy/dispensary unit and the Primary Care Centre shall be permitted without a further grant of planning permission.
 - (b) The total number of parking spaces serving the Primary Care Centre development shall be reduced from the permitted 68 no. spaces to 60 no. spaces, five of which shall be reserved for the use of the pharmacy/dispensary unit and shall be clearly demarcated as such.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of clarity.

3. The development shall comply with the terms and conditions of Planning Permission PL67.240854 granted by the Board which governs the overall development of the lands of which the site forms part, save where amended by the terms and conditions herein.

Reason: In the interest of clarity.

4. (a) Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, the unit shall be operated as a pharmacy/dispensary unit as specified in the lodged documentation, unless otherwise authorised by a prior grant of planning permission.
- (b) The pharmacy/dispensary unit hereby permitted shall be restricted to the floorspace as shown on Drawing No. 20107_A10-02 dated 02/11/20 Rev. A, and shall not be amalgamated with any other unit or floorspace within the Primary Care Centre unless authorised by a prior grant of planning permission.

Reason: In the interests of clarity and protecting the vitality and viability of the town centre.

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

Reason: In the interest of visual amenity.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the

Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Mary Kennelly
Planning Inspector

20th December 2021