



An
Bord
Pleanála

Inspector's Report ABP310259-21

Development	Change of use from office to use as a pharmacy together with new shopfront and signage and associated works.
Location	Moneen Road, Moneenbradagh, Castlebar, County Mayo.
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	20948.
Applicant	Barcastle Industries Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Barcastle Industries Limited.
Observers	None.
Date of Site Inspection	27 th July, 2021.
Inspector	Paul Caprani.

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1.0 Introduction

ABP310259-21 relates to a first party appeal against the decision of Mayo County Council to issue notification to refuse planning permission for a change of use of an existing commercial unit from office use to a proposed pharmacy. Mayo County Council refused planning permission on the basis that the development would give rise to a retail use on the subject site which would undermine the vitality and viability of Castlebar Town Centre and as such would be contrary to Policies RP2 and RP3 of the Castlebar Town and Environs Development Plan. The subject site is located on the Moneen Road in the western environs of Castlebar Town.

2.0 Site Location and Description

- 2.1. The subject site is located within an existing retail/light industrial/enterprise park on the southern side of the Moneen Road/R373 on the eastern environs of Castlebar Town. The subject site is located approximately 100 metres to the west of the roundabout on the R373/N5 Intersection. The site itself comprises of the north-eastern corner of an existing two-storey commercial building on the southern side of the R373. A small formal parking area is located at the area to the front of the building (between the building and the roadway). An internal access road (McHale Road) runs along the eastern boundary of the site and provides access to other industrial/commercial/leisure units to the rear. The building in which the subject site forms part accommodates a number of other retail units including a white goods electronic store and a carpet outlet. It appears from the signage on the front of the building that the upper portion of the building also accommodated other services including computer training and web design training. There is a predominance of retail/light industrial and leisure uses in the wider area including a bowling alley and a cinema. A Lidl supermarket is also located on lands further west along the Moneen Road. Other retail activities in the area include home decoration and décor specialists, tileware houses and retail outlets and tyre shops.
- 2.2. The appeal site comprises of the corner unit and has a ground floor open plan area of 112 square metres. The first floor also has a gross floor area of 112 square metres and the drawings submitted with the application indicate that the first floor is

internally divided into various office space, lecture rooms together with staff toilets etc. Access to the building is located on the north-eastern corner.

3.0 Proposed Development

- 3.1. The public notices relating to the application and appeal states “the development will consist of minor external alterations and change of use to existing commercial unit together with new shopfront and signage”. The grounds of appeal however clarify the ambiguity contained in the public notice where it is stated that the proposed change of use relates is from office to a proposed pharmacy. The ground floor is to accommodate the retail space associated with the pharmacy, and the first floor relating to ancillary functions such as staff facilities and storage etc.

4.0 Planning Authority’s Decision

Mayo County Council issued notification to refuse planning permission for a single reason which is set out in full below.

Having regard to the location of the unit within an area zoned enterprise and employment under the Castlebar Town and Environs Plan 2008 – 2014 (as extended), it is considered that the development would give rise to a retail unit, which would undermine the vitality and viability of Castlebar Town Centre. The proposed development would, be contrary to RP2 and RP3 of the Castlebar Town and Environs Plan 2008 – 2014 (as extended) which seeks to direct new retail development in the first instance into the retail cores of Castlebar in order to strengthen the role of the town centre as the primary retail centre for both the town of Castlebar and the wider region. Therefore, it is considered that the proposed development would be contrary to Ministerial Guidelines issued to Planning Authorities under Section 28 of the Planning and Development Act 2000 (as amended) namely Ministerial Guideline No. 22 “Guidelines for Planning Authorities: Retail Planning, April 2012”.

4.1. **Planning Authority Assessment of the Application**

- 4.1.1. The initial planner's report notes that the proposed change of use is not clearly indicated on the planning application form. On this basis Mayo County Council requested that additional information be sought which included:
- Revised notices clearly indicating and stating the exact nature of the proposed change of use.
 - Submit car parking details pertaining to the change of use in accordance with relevant parking standards set out in the Plan clearly delineating the car parking area associated with the change of use on site.
 - Clarify if the proposed shopfront/signage has been discussed in advance with the applicant and to submit shopfront elevations on a scale of 1:20.
- 4.1.2. Further information was submitted and this included public notices which stated that the change of use of the ground floor from office to retail shop.
- 4.1.3. On 22nd March, 2021 Mayo County Council requested that the applicant clarify the exact nature of the proposed retail use at this location. It is noted that while a retail shop (general) is open for consideration in the development plan certain retail uses would not be appropriate at this location considering the current zoning provision (enterprise and employment) and the protection of traditional town centre uses. Furthermore information was submitted on 26th March, 2021 which stated that the proposed change of use which refers to the ground floor only is to be converted from office use to pharmacy.
- 4.1.4. A further planning report was prepared. It notes that there were no submissions in relation to the revised planning notices. However, Mayo County Council is of the opinion that the permission for such a change of use could undermine the vitality and viability of Castlebar Town Centre. It is considered that the proposed development for a pharmacy situated outside the defined retail core area is contrary to the Castlebar Town and Environs Plan and would undermine the viability and core centre of Castlebar which has a high degree of vacancy. As such, the proposal is contrary to the development plan and the retail planning guidelines. For this reason Mayo County Council refused planning permission for the proposed development.

5.0 Planning History

- 5.1. No appeal files are attached. The planner's report makes no reference to any relevant planning history pertaining to the subject site.

6.0 Grounds of Appeal

- 6.1. The decision of Mayo County Council was the subject of a first party appeal on behalf of the applicant by 'The Planning Partnership'.
- 6.2. From the outset the applicant requests that the Board consider the scope of the subject application to apply to the whole unit (ground floor and first floor with the first floor accommodating ancillary functions only).
- 6.3. The grounds of appeal indicate that the parent permission was granted in December, 1995 for a reflexology/therapy unit, retail unit including car park and site works. It is stated that the permission was granted on foot of a material contravention on the Castlebar Plan as such uses were not permitted on the then industrial zoned land. Condition No. 3 of the parent permission states that the reflexology/therapy unit shall not be used for any purpose other than reflexology/therapy. Subsequently, under PD/2402 retention of planning permission was granted for two windows at first floor level and four windows at ground floor level to the reflexology unit.
- 6.4. It is also noted that under planning register reference 13/125 planning permission was granted for a primary care centre c.850 metres from the subject site. It is noted that a pharmacy is in operation in close proximity to the primary healthcare centre. This grant of planning permission suggests that pharmacies should not be restricted to the town centre and should be distributed throughout the town.
- 6.5. It is also noted that Mayo County Council granted planning permission for a pharmacy on a different site under Reg. Ref. 16/463 on lands zoned residential which is a similar distance from Castlebar Town Centre from the subject site.
- 6.6. It is argued that the proposed use as a pharmacy does not strictly comply with the category of land uses set out in the zoning matrix in the development plan. The use of a pharmacy can be classed as either a retail shop (general) and/or a medical and related consultant use. These uses are open for consideration and normally

permitted respectively, within the enterprise and employment land use zoning provision.

- 6.7. It should be noted that the retail/therapy unit which formally existed on the site would have had an element of retail sales as would be normal for any operation.
- 6.8. It is stated that the proposal will be offering primarily dispensary services and associated consultancy. Pharmacies are playing an ever increasing role in terms of direct engagement and advice to customers rather than merely providing products and prescriptions. These will include booster vaccinations as required as a consequence of the Corona Virus. An indicative ground floor fitout is attached under Appendix C.
- 6.9. It is also argued that the pharmacy use is not a town core use, it is a lower order shop as opposed to a higher order fashion or comparison goods. This it is argued is reflected in the Retail Planning Guidelines and the Mayo County Retail Strategy. The proposed use is very much appropriate for a neighbourhood centre to meet the daily needs of the local community.
- 6.10. It is also noted that pharmacies are located throughout the town and are not confined to the town centre. On this basis it is argued that the proposed development will not have a material impact on the vitality or viability of the town centre. The premises is also in close proximity to a number of medical practices and hence would be a complimentary use. Medical practitioners in the vicinity include the Mayo Sports Clinic and a local doctor.
- 6.11. The proposal will facilitate a new entrant onto the local market and will provide an opportunity for job creation both in construction and operational phases.
- 6.12. It is argued that the proposed development is consistent and compatible with local and national retail planning policy and the proposal will not have any discernible effect either positive or negative on the role of the town centre and is highly suited to be accommodated in local/neighbourhood centres rather than exclusively the town centre. The proposal will complement the existing local/neighbourhood cluster. The subject premises is in itself a vacant unit which the current application seeks to remedy. This should be seen as a planning gain. On the basis of the above it is recommended that the decision of Mayo County Council be overturned in this instance and that planning permission be granted for the proposed development.

7.0 Planning Authority's Response

7.1. Mayo County Council have not submitted a response to the grounds of appeal.

8.0 Development Plan Provision

8.1. The site is governed by the policies and provisions contained in the Castlebar Development Plan 2008 – 2014 (as extended).

8.2. The subject site is located in an area designated under the land use zoning objective as 'enterprise and employment'. The objective is to provide for the improvement of retailing, enterprise and industrial employment needs of the town. It states that this zoning allows for more varied and flexible number of land uses. The development of convenience retailing will not normally be encouraged in this zoning.

8.3. Chapter 11 of the development plan specifically relates to retailing. It states that it is a priority for the Council to maintain the town centre as the principle shopping area for the town and the wider region and as such the loss of retail uses and frontage will be resisted within the principle shopping streets.

8.4. Policy RP1 states it is the policy of the Council to resist the conversion of the ground floor premises of principle shopping streets to non-retail uses.

8.5. Policy RP2 states that it is the policy of the Council to seek to maintain and enhance the role of the town centre as the dominant commercial and retailing area of Castlebar and its environs.

8.6. RP3 states it is the policy of the Council to limit, except where permitted by other policies within the plan, retail developments outside the town centre and retail core. Town centre sites will be favoured over out of town sites. The sequential approach should be adopted if it is demonstrated that no town centre site is available.

8.7. Section 11.10 of the plan relates to local shops. It notes that there are several small local centres scattered throughout the town and environs. These facilities are not generally purpose built but rather have evolved over time. Local shops perform an important function in that they satisfy local retail requirements of the community. Similar to neighbourhood centres they play a vital economic and social role in the communities and are essential for day to day needs with their accessibility to less

mobile sectors of the community of particular importance. The Council acknowledges that local importance of existing shops and will require that they should be safeguarded and additional shops may be considered in areas where there is a clear deficiency of retail provision.

- 8.8. Policy RP10 states it is the objective of the Council to protect existing local convenience shops and encourage the provision of new local convenience shops in residential areas where there is a clear deficiency of retail provision subject to the protection of residential amenity.
- 8.9. Policy RP11 states that the Council would favourably consider the development of small scale individual or small groups of shops providing for the daily needs of the local communities at locations identified as local centres of where there is no suitable existing provision and there is a recognised need subject to:
- (a) Scale of service commensurate with the local area.
 - (b) Provision of adequate parking and servicing.
 - (c) Accessibility by choice of means of transport.
 - (d) The proposal would not detract from the residential amenity or adversely affect highway safety or free flow of traffic.

8.10. **Natural Heritage Designations**

The nearest Natura 2000 site is the River Moy SAC which at its closest point is located approximately 6.2 kilometres to the east and 4 kilometres to the north of the subject site.

8.11. **EIAR Screening**

The proposed development is not a class of development for which EIAR is required.

9.0 **Planning Assessment**

I have read the contents of the file, visited the subject site and its surroundings and have had particular regard to the Planning Authority's reason for refusal and the rebuttal set out in the first party appeal against the decision. I consider the critical issues in determining the current application and appeal before the Board are as follows:

- Contravention of Zoning Provisions
- Impact on Vitality and Viability of Town Centre
- Other Issues

9.1. Contravention of Zoning Provisions

- 9.1.1. The zoning objective for the site which relates to the provision of enterprise and employment. It incorporates the objective to “*provide for the improvement of retailing, enterprise, and industrial employment*”. The Board will note that the specific objective for this land use zoning includes “*to provide for the improvement of retailing*” this obviously suggests that retailing is a permitted activity under this land use zoning objective. There is no specific land use class listed in the zoning matrix for pharmacy. Under the enterprise and employment zoning objective, a retail shop (general) is a use which is open for consideration. ‘Medical centre clinic’ and ‘medical and related consultant use’ are classes that are normally permitted under this zoning objective.
- 9.1.2. Therefore, it is apparent from the zoning objectives which, inter alia, seek to provide the “improvement of retailing”, that general retailing is open for consideration. This implies that any such development should be adjudicated on its merits. Furthermore, in relation to uses which are open for consideration, the development plan states that these uses are “*generally acceptable except where indicated otherwise and where specific considerations associated with the given proposal (i.e. scale) would be unacceptable or where the development would be contrary to the objectives for a given area. Such uses would not be a material contravention of the Plan*”.
- 9.1.3. The proposed pharmacy use is not excessive in scale nor is the development contrary to any specific objectives in the given area and it can therefore be concluded that the use of the retail unit as a pharmacy can be considered generally acceptable in accordance with the zoning provisions and cannot be considered a material contravention of the plan.
- 9.1.4. Furthermore, the Board should note, and as outlined in the grounds of appeal, that the proposed pharmacy is not exclusively retail in nature. It also offers medical advice and consultation and pharmacy’s are increasingly taking on other roles, most notably in relation to vaccination administration. In this regard the proposed use can

also be considered as a service in terms of medical and related consultancy or indeed a medical centre clinic. Both of these issues are permitted in principle under the enterprise and employment land use zoning objective.

- 9.1.5. I would therefore conclude based on the assessment set out above, that the proposed use of the unit as a pharmacy would not contravene the zoning objectives set out in the development plan and would in my view be generally in accordance with the zoning provisions contained in the Plan.

9.2. **Impact on Vitality and Viability of Town Centre**

- 9.2.1. The Planning Authority's reason for refusal argues that the proposed development could impact on the vitality and viability of Castlebar Town Centre and as such it would be contrary to Policy RP2 and RP3 of the County Development Plan and also contrary to the Retail Planning Guidelines.
- 9.2.2. The proposed use of the unit for a pharmacy is appropriate in my opinion as a pharmacy is a local service which should be conveniently located in an accessible location for use by the local community particularly in the suburban areas of Castlebar. The provision of a pharmacy is akin to a local shop in performing an important local function in satisfying the local retail requirements of the community. Pharmacies provide a vital service and social role in the community and are important for essential day to day needs particularly for less mobile sectors of the community.
- 9.2.3. The Barracastle area, in which the site is located, provides a number of local neighbourhood type retail facilities including a local public house/restaurant and a local supermarket. The development plan clearly identifies a pharmacy use as an appropriate use for neighbourhood centres outside the town centre. The provision of a pharmacy at this location therefore is appropriate in my opinion. It provides a local service within an existing neighbourhood centre which is easily accessible for the local community. The proposal does not constitute a high order comparison type use (such as a higher-order fashion retail outlet) which is more suitable for the town centre and therefore would not in my opinion undermine or erode the vitality or viability of Castlebar Town Centre. The nature of the use proposed therefore would not be contrary to Policy RP2 or RP3 of the Castlebar Development Plan nor in my

view would it run contrary to the policies and provisions contained in the Retail Planning Guidelines.

9.3. Other Issues

- 9.3.1. The Board will note from the planning history set out in the grounds of appeal that the parent permission relating to the unit permitted a reflexology/therapy unit, retail unit including car park and site works. This suggests from the development description, that the acceptability of a retail unit was established under the parent permission. There therefore exists a relevant precedent to permit a retail unit on site.
- 9.3.2. Furthermore, my photographs attached to this report clearly indicate that the unit is presently vacant and the incorporation of a retail use at this location will reduce the level of vacancy in the area and will add to the footfall and vitality of this out of town neighbourhood centre. The provision of a retail unit, be it pharmacy or otherwise at this particular location would in my view represent a planning gain.
- 9.3.3. Finally, I would bring to the Board's attention the issue of public notices. It is clear from the information contained on file that the applicant was requested to readvertise public notices on two occasions in order to more adequately describe the nature and extent of the proposal. The Board will note that the final submission on behalf of the applicant in respect of clarification of additional information on 26th March, 2021 stated, "that the proposed change of use of the existing commercial unit refers to the ground floor only which is to be converted from office to pharmacy use".
- 9.3.4. The applicant in the grounds of appeal (paragraph 1.2-7, page 1) states that for the purposes of clarity, the applicant confirms that the scope of the subject application is the whole unit (ground floor and first floor) with the ground floor being the primary area of shop activity and the first floor being related to ancillary functions (staff facilities, storage etc.). Should the Board deem it appropriate, it could prior to issuing a determination on the appeal, request that the applicant provide new public notices clearly stating that the proposed change of use relates to the entirety of the unit (i.e. first and second floor) in the interest of clarity and to avoid any ambiguity. However, having considered this issue, I note that the upper floor of the unit is to be used for storage, administrative and ancillary uses associated with the pharmacy. It appears that the retail activity is to be confined to the ground floor only. I therefore consider that the use of the first floor is compatible with the existing office use established on

site and therefore a material change of use has not occurred at first floor level. As such, the public notices as they stand adequately reflect the nature of the material change of use proposed. Therefore, it is my considered opinion that new notices are not required in this instance.

10.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to 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.

11.0 Reasons and Considerations

Having regard to the zoning objective for the site which seeks to provide for the improvement of retailing, enterprise and industrial employment and where a retail shop is open to consideration, it is considered, subject to conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally 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.

12.0 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 information submitted on the 25th day of February, 2021 and the 26th day of March, 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. Details of the proposed shopfront and signage to be provided on the exterior elevation shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. All retail activity shall be confined to the ground floor of the unit. The first floor shall be used for uses ancillary to the retailing activity.

Reason: In the interest of orderly development and to define the extent of the permission.

4. Water supply and drainage arrangements including the attenuation of surface water shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

5. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to the commencement of development.

Reason: In the interest of public health.

6. The proposed shopfront shall be in accordance with the following requirements:

- (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand painted lettering or individually mounted lettering.
- (b) No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission.
- (c) Any internal shutter shall be only of the perforated type coloured to match the existing shopfront colour.
- (d) No adhesive materials shall be affixed to the windows or shopfront.

Reason: In the interest of visual amenity.

7. 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), advertising structures, banners, canopies, flags or other projecting elements shall be displayed or erected on the building 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.

8. Details of any car parking spaces to be reserved to serve the proposed retail unit shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure that adequate off-street car parking is available to serve the development.

9. 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.

Paul Caprani,
Senior Planning Inspector.

13th October, 2021.