



An
Bord
Pleanála

Inspector's Report

ABP-311615-21

Development	Change of use of existing building from retail use to its current use as a medical centre together with all associated signage and incidental ancillary works
Location	14 St. Nessian's Park, St. Nessian's Road, Dooradoyle, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	201278
Applicant(s)	Valcris Clinic Limited
Type of Application	Retention Permission
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Dr. Rizwan Mughal
Date of Site Inspection	20 th January 2022
Inspector	Liam Bowe

1.0 Site Location and Description

- 1.1. The 0.0188 hectares appeal site is located off St. Nessian's Park on a small street known as Carrig Drive to the east of and parallel to St. Nessian's Road in Dooradoyle, within the southern part of Limerick City. The site comprises an existing two-storey, semi-detached building (formerly houses) that address the main vehicular access to this cul-de-sac. The other part of the semi-detached building is also operating as a medical centre/GP practice and the owner/occupier of this building is the appellant under this appeal. There is a bar/restaurant to the south of the appeal site which is also accessed via this small street. There are 5 no. on-street car parking spaces to the front of the appeal site and adjacent site to the north. There are also 7 no. designated car parking spaces to the front of the adjacent Hi-Way Bar and Restaurant.
- 1.2. Further to the south is a filling station with associated retail outlets which combined with retail stores opposite forms a neighbourhood centre at this location. University Hospital Limerick is immediately south of this on St. Nessian's Road.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of a change of use of an existing building from retail to a medical centre.

3.0 Planning Authority Decision

3.1. Decision

On 16th September 2021, Limerick City & County Council decided to grant permission, subject to four conditions. Condition No.2 requires the car parking provision to be clearly dedicated for use by the medical centre.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer notes the objection received and raises concerns regarding car parking provision. A second report raises concerns about the

precise requirement and actual provision of car parking spaces and clarification of further information was recommended. A third report, subsequent to the submission of a response to the clarification of further information, recommends a grant of permission consistent with the notification of decision which issued.

3.2.2. **Other Technical Reports**

Roads Section – The Senior Executive Technician recommends permission be granted.

3.3. **Prescribed Bodies**

Irish Water – No objection. Conditions recommended.

3.4. **Third Party Observations**

Dr. Rizwan Mughal, 'Walkin' Medical Centre, 13 St. Nessian's Park, Nessian's Road, Dooradoyle, Limerick

- Experiencing daily chaos due to lack of parking for their patients.
- Post is being mistakenly delivered to No.14 Nessian's Park.

4.0 **Planning History**

4.1. **Appeal Site:**

P.A. Ref. No. 18486: Permission for retention of change of use of a portion of the ground floor of the existing commercial building from general commercial use to its current use as a medical centre – no decision.

P.A. Ref. No. 151007: Permission refused for retention of change of use of existing building from residential accommodation to its current use as a medical centre due to lack of on-site car parking.

PL 13.235594 (P.A. Ref. No. 091233 refers): Permission granted for the demolition of all existing structures on site and the construction of a two-storey building above partial basement comprising a retail unit/off-licence, a post office, a café/bar, a medical centre, 18 bed guesthouse and 52 no car parking spaces.

4.2. **Adjacent Site:**

P.A. Ref. No. 15478: Permission granted for change of use of existing structure from residential use to doctor's surgery.

5.0 **Policy Context**

5.1. The operative plan for the area is the **Limerick County Development Plan 2010 – 2016 (as extended)** and the **Southern Environs Local Area Plan 2011 – 2017 (as extended)**. The site is in an area zoned 'Retail / Commercial' and health centre / clinic is open for consideration under this land use zoning. The purpose of this zoning is to protect and enhance the character of the Southern Environs' retail centres and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to these centres.

5.1.1. Section 10.11.3 of the Limerick County Development Plan 2010 – 2016 (as extended) outlines the Vehicle Parking Standards. There is a requirement for 1 no. space per staff member and 2 no. spaces per surgery for 'Clinics / surgeries' use.

5.2. **Natural Heritage Designations**

The site is not located within any European site. The closest Natura 2000 site is the Lower River Shannon SAC (Site code: 002165) located approx. 1km to the north.

5.3. **EIA Screening**

The proposed change of use to the existing building is not a class of development for which EIA is required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The grounds of appeal are submitted by Dr. Rizwan Mughal, 'Walkin' Medical Centre, 13 St. Nessian's Park, Nessian's Road, Dooradoyle, Limerick. The main points made can be summarised as follows:

- Contend that the parking requirement is 7 no. spaces and not the proposed 5 no. spaces. The parking spaces are also in use as an external seating area. Contend that designated disability parking bay is substandard.
- Contend that the proliferation of medical centres militates against a fair equitable marketplace. Notes that there are in excess of 10 medical centres/GP practices working in this area.
- Contend that the proprietor may be living at the address and medical use may not be operating at first floor level.

6.2. Applicant Response

6.2.1. The applicant's engineer responded to the issues raised in the appeal as follows:

- Submits a lease agreement between the landlord and the first party confirming their sole use of 5 no. designated car parking spaces to the front of the Hi-Way Bar & Restaurant.
- Reiterates the number of people working (4 no.) in the medical centre and confirms hours of operation.
- Highlights the extent of car parking (9 no. spaces) available on the appellant's property.
- Confirms the daily usage (up to 30 'walk in' patients daily) and the need for this service, as well as the adjacent property's service, for this large suburban area.
- Confirms that the first floor area of the building is used for storage and staff facilities.

6.3. Planning Authority Response

None.

6.4. Further Responses

The appellants response received states that:

- The indicative provision of 5 no. car parking spaces is insufficient to cater for staff and patients. Contends that the Development Plan requires 6 no. spaces for this service and, if there is more than 1 GP operating, 8 no. spaces would be required.
- Requests the Board to satisfy themselves as to the first floor use.

7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Principle of development
- Traffic safety and car parking
- Other Issues
- Appropriate Assessment

7.1. Principle of development

7.1.1. The site is in an area zoned 'Retail / Commercial' under the Southern Environs Local Area Plan 2011 – 2017 (as extended). Health centre / clinic use is open for consideration under this land use zoning. Similarly, the site has a land use zoning of 'Local Centre' under the Draft Limerick Development Plan 2022-2028 and health centre / clinic use is also open for consideration under this land use zoning.

7.1.2. The purpose of this zoning is to protect and enhance the character of the Southern Environs' retail centres and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to these centres. Having regard to the above, I consider that the principle of the development is acceptable at this location.

7.2. Traffic safety and car parking

7.2.1. The appellant contends that the development requires 6 no. car parking spaces for this medical service and, if there is more than 1 GP operating, 8 no. spaces would be required. The appellant also contends that, due to this shortage of car parking

provision, this results in haphazard parking on footpaths and within the third party's car park associated with his GP practice.

- 7.2.2. The first party confirmed that the maximum number of people working in the clinic at any one time would be 4, consisting of 1 doctor, 2 receptionists and 1 cleaner. The first party also confirmed that there is 1 consulting room in use. The first party confirms agreement (details submitted in response to this appeal) with the owners of the Hi-Way Bar and Restaurant that the medical practice has sole the use of 5 no. dedicated car parking spaces immediately in front of the bar and restaurant and adjacent to the first party's medical practice.
- 7.2.3. As outlined earlier in this report, Section 10.11.3 of the Limerick County Development Plan requires the provision of 1 no. space per staff member and 2 no. spaces per surgery for 'Clinics / surgeries' use. Based on the numbers provided by the first party, there would be a requirement for 6 no. car parking spaces i.e., 4 no. employees and 2 no. spaces required for the surgery, available to the medical practice if all employees were in attendance.
- 7.2.4. On the day of my site inspection, I noted the availability of the 5 no. dedicated spaces outside of the Hi-Way Bar and Restaurant for parking. I also noted 2 no. additional dedicated spaces further to the southwest of the appeal site, which are not included in the agreement between the first party and the owners of Hi-Way Bar and Restaurant. At the time of my site inspection, the clinic was open and all 5 no. dedicated car parking spaces were empty and available for parking, and the on-street car parking spaces to the northeast of the appeal site were all occupied.
- 7.2.5. Given the location of the appeal site, within an area established as a local neighbourhood centre with car parking available at various locations, its position on a bus corridor, and the provision of 5 no. dedicated car parking spaces adjacent to the appeal site, I am satisfied that the proposed car parking provision is acceptable.

7.3. **Other Issues**

7.3.1. Proliferation of medical clinic use

The appellant contends that there are in excess of 10 no. medical centres / GP practices working in this area and the proliferation of medical centres militates against a fair equitable marketplace. I disagree and consider that this would manifest

in a vibrant and healthy market for this essential social service. It should be noted that University Hospital Limerick, which is located 130m to the south of the appeal site, is a significant economic driver for this part of Limerick City and, in this instance and type of use, a locational driver for medical related uses. Notwithstanding this, it is not the role of either the Planning Authority or An Bord Pleanála to regulate competition in the marketplace.

7.3.2. Ambiguity around first floor use

I note the references by the appellant regarding possible unauthorised use(s) at first floor level on the appeal site. I also note the comments of the first party refuting these comments and clarifying how the first floor is in use i.e., storage and staff facilities. I am satisfied that the first floor use can be, and has been, assessed as being associated with the medical clinic / GP use of the overall building. The development for retention under this appeal is for this change of use only and, there is no clear indication of other uses on the site. If a planning enforcement issue arises, it is a matter for the respective Planning Authority, and An Bord Pleanála has no role in this.

7.4. **Appropriate Assessment**

- 7.4.1. The site of the proposed development is located within the urban area of Limerick City at a location which is separated from Lower River Shannon SAC (Site Code: 002165) by extensive buildings, infrastructure and other developments. Having regard to the nature, scale, and location of the proposed development, the serviced nature of the site, the nature of the receiving environment, the absence of any pathway from the appeal site, and the separation distance to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

I recommend that planning permission should be granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the retail / commercial zoning objective for the area and the pattern of development in the area, it is considered that subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity 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.	<p>The development shall be retained and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 14th day of July 2021 and on the 25th day of August 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Within three months of the date of this order, the applicant/developer shall submit photographic evidence to the Planning Authority confirming the clear delineation of the disabled access car parking space per the details submitted to the Planning Authority on the 25th day of August 2021.</p> <p>Reason: In the interest of universal access.</p>
3.	<p>No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.</p>

	Reason: In the interest of visual amenity.
4.	<p>The developer shall pay to the planning authority a financial contribution of €4,298.00 (four thousand two hundred and ninety eight euro) 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. The application of any indexation required by this condition 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.</p> <p>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.</p>

Liam Bowe
Planning Inspector

10th February 2022