



An
Bord
Pleanála

Inspector's Report ABP 312790-22

Development	Change of use from vacant commercial unit to veterinary clinic with retail and reception area, single storey rear extension and glazed shopfront with door.
Location	Ground Floor Unit, 8 Main Street, Donnybrook, Dublin 4.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3906/21
Applicant	Maeve Walsh
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	Jean Costello
Observer(s)	None
Date of Site Inspection	01/04/22
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site is the ground floor of a three storey, mid terrace commercial unit located on the east side of Main Street in Donnybrook village. The unit is vacant. It was formerly amalgamated with the ground floor of No.10 and was in use as a bank. Both buildings shared a shopfront. The upper floors of No.8 are in residential use by way of 2 no. apartments with their own individual access at street level.

The immediate vicinity of the site is characterised by a mix of retail, offices and a food outlet with offices/commercial uses on the upper floors noted to the north-west. Rear access is available from Mulberry Lane along which parking was noted. On street parking in front of the site is subject to pay and display.

2.0 Proposed Development

The proposal entails:

- Change of use of unit from commercial to use as a veterinary clinic with retail and reception area to the front.
- 26 sq.m. single storey mono pitch extension to the rear providing for a store.
- New shopfront to the street.
- Ancillary works

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 12 conditions. Of note:

Condition 3: Hours of operation to be agreed.

Condition 4 (a): No pets to be kept on the premises overnight unless otherwise agreed in writing.

Condition 5: Shopfront requirements.

Condition 6: Archaeological requirements

Condition 8 (b): cycle parking to be sheltered and well lit.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Whilst a veterinary surgery is not listed as permissible or open for consideration use within Z4 zones, section 14.4 of the plan does not preclude the granting of uses not listed subject to compliance with other policies and objectives in the plan. It is noted that a veterinary surgery is permissible in the city centre Z5 and open for consideration in neighbourhood centres Z3. Therefore it is considered reasonable that consideration be given to such a use in Z4 given that it seeks to promote a diversity of uses.
- The surgery is relative small and would broaden the range of uses within Donnybrook village.
- To protect the amenities of adjoining residential units a condition precluding animals being housed in the building overnight unless otherwise agreed with the planning authority is recommended. The scope to keep animals in the former bank vault, which may provide adequate acoustic attenuation, is noted in this regard.
- The matter of the signage can be dealt with by way of condition.
- Due to its location and availability of public transport and short term car parking, off street parking is not necessary.
- Bicycle parking should be covered.

A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Transportation Planning Division states that having regard to the size of the proposed development, proximity to public transport, provision of secure cycling parking for staff as well as numerous public car parking spaces to the front on Donnybrook Main Street to service visitors to the facility, the loss of 1 no. off street parking space is acceptable in this instance. No objection subject to conditions.

Environmental Health Officer recommends conditions addressing noise during construction and operational phases.

Drainage Division has no objection subject to conditions.

City Archaeologist recommends a condition should permission be granted.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

An objection and a letter in support of the application received by the planning authority are on file for the Board's information. The issues arising in the objection to the proposal are comparable to those set out in the 3rd party appeal summarised in section 6 below.

4.0 Planning History

The planning history on the site is summarised in the Area Planner's report on file the most recent permission dating back to 2009.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016

The site is in an area zoned Z4 the objective for which is to provide for an improve mixed service facilities.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by RW Nowlan & Associates on behalf of the 3rd party appellant can be summarised as follows:

6.1.1. Zoning Provisions

- A veterinary clinic is not listed as permissible or open for consideration on Z4 zoned lands. It should be located in areas which are better suited and in need of such services to serve the local population.
- The proposal is not seen to be compatible with employment provisions for the zone which seek to encourage the provision of mixed-use developments incorporating retail, office, residential and live-work units and the creation of small start-up units.

6.1.2. Suitability of Unit for Proposed Use

- The proposal is incompatible with the residential use on the 1st and 2nd floors in terms of noise and disturbance.
- Condition 4(b) pertaining to noise level requirements is impractical.

6.1.3. Traffic

- An assessment of the traffic implications of the proposal has not been submitted.
- No parking is provided and the parking space to the rear is to be removed.
- People leaving animals to the surgery will park outside the clinic in an ad hoc fashion which will cause disruption and parking issues for customers of other businesses and residents of upper floor accommodation.
- 2 no. unsheltered bicycle parking spaces is inadequate.

6.1.4. Fire and Disability Access Standards

- The plans do not show whether adequate space has been provided for internal walkways to comply with the standards.

6.2. Applicant Response

The submission by Lally Chartered Engineers can be summarised as follows:

6.2.1. Zoning Provisions

- Section 14.8.4 of the development plan states that a diversity of uses should be promoted to maintain the vitality of district centres throughout the day and evening.
- Veterinary surgery is permissible in Z4 in the 2022-2028 draft development plan.
- The nature of small animal veterinary surgeries have changed to a more retail type of service and the draft plan appears to note this fact.
- The business is a start up providing employment and diversity.
- There are no other surgeries in the locality.

6.2.2. Suitability of Unit for Proposed Use

- The upper levels of the building and adjacent buildings are offices and are used for commercial activity. The upper two floors of the building have been vacant since the early 1990's
- The residential units have been recently refurbished including fire proofing and sound proofing.
- The intention is to use the upper floors for living accommodation for staff members.

6.2.3. Traffic

- The site is within a village setting well served by public transport.
- There was never a parking space to the rear due to the constraints in terms of access. It was used for waste storage.
- There is adequate pay and display parking to the front of the building. There is also a public carpark to the rear of the building which is not well used.

6.2.4. Fire and Disability Access Standards

- Compliance with the said standards is not a planning issue.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Compatibility of proposed use with zoning provisions
- Impact on amenities of adjoining property
- Traffic
- Other Issues

7.1. **Compatibility of Proposed Use with Zoning Provisions**

As per the current city development plan the site, in the village of Donnybrook, is within an area zoned Z4 District centre wherein it is the objective to provide for and improve mixed-services facilities. The plan states that district centres, which include urban villages, provide a far higher level of services than neighbourhood centres. To maintain their role as district centres, a diversity of uses is to be promoted to maintain their vitality throughout the day and evening.

A veterinary surgery is not listed as permissible or open for consideration within the zone. The plan is quite clear in stating that uses not listed under the 'permissible' or 'open for consideration' categories will be deemed not to be permissible uses in principle in zones Z1, Z2, Z8, Z9, Z11 and Z15. This does not include Z4. The plan states that in such circumstances other uses will be dealt with in accordance with the overall policies and objectives of the plan.

It is noteworthy that in Z5 -City Centre a veterinary clinic is permitted in principle and is open for consideration in Z3 – Neighbourhood Centres. I note that in the review of the current development plan and the draft plan available a veterinary clinic is

deemed to be permissible within Z4. On this basis and in view of the above stated aim of the zone to provide for a diversity of uses, I consider that there is no impediment to the consideration of the proposed use at this location.

7.2. Impact on amenities of adjoining property

The immediate vicinity of the site is characterised by commercial uses with a terrace of dwellings noted to the north-west in addition to a dwelling on Mulberry Lane. The terrace of which the site forms part comprises a mix of units including retail and a fast food outlet with commercial and office uses predominating at upper floor levels. The proposed change of use will entail the retail element of the enterprise being to the front with the veterinary surgery rooms to the rear thereby allowing for a more active frontage to the main street. The surgery, itself, is small in scale. Subject to a condition limiting the keeping of animals overnight unless otherwise agreed with the planning authority so to protect the amenities of the residential units above, I consider that the proposal would not have an adverse impact on the amenities of adjoining property.

The requirements in terms of the shopfront can be ensured by way of condition.

A small extension is proposed to the rear to provide for storage with pedestrian access from the rear lane. There is no objection to same.

7.3. Traffic

Due to the narrowness of the rear lane vehicular access to the rear yard is difficult and the agent for the applicant confirmed that it has not been used for such purposes. No parking is to be provided with on-street parking subject of pay and display available along the road frontage and in the general area. In addition there is a car park to the north of the site accessed from Mulberry Lane. Whilst the proposed development would generate vehicular movements the parking requirements arising can be met by the existing on street provision in the vicinity. Issues with regard to illegal parking etc. is a matter for the relevant authorities to police.

7.4. Other Issues

Fire and disability access requirements are subject to compliance with the building regulations and are not a matter for adjudication under the planning acts.

Appropriate Assessment

Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, 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

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the location of the site within the village of Donnybrook and the Z4 zoning provisions for the area, the objective for which is to provide for and improve mixed service facilities, it is considered that subject to compliance with conditions below, the proposed development would be compatible with and would add to the diversity of uses within the area, would not seriously injure the character of the area or the amenities 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. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following condition. Where such conditions requires 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. No animals shall be kept on the premises overnight unless otherwise agreed in writing with the planning authority.

Reason: In the interest of protecting the amenities of property in the vicinity.

3. The operating hours of the veterinary clinic and associated retail area shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of protecting the amenities of property in the vicinity.

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

- (a) Signs shall be restricted to a single fascia sign in hand-painted lettering or individually mounted lettering.
- (b) Lighting of the fascia and shopfront shall be by means of external illumination only.
- (c) Notwithstanding the provisions of the Planning and Development Regulations, 2001 or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building, unless authorised by a further grant of planning permission.
- (d) No adhesive material shall be affixed to the windows or the shopfront.

(e) An external roller shutter shall not be erected, any internal shutter shall be only of the perforated type, coloured to match the shopfront colour

Reason: In the interest of visual amenity.

5. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

6. Waste within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials shall be in accordance with the requirements of the planning authority. Details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the appropriate management of waste and recyclable materials.

7. 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.

Pauline Fitzpatrick
Senior Planning Inspector

April, 2022