



An
Bord
Pleanála

Inspector's Report ABP-318738-23

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| Development | Change of use of existing retail store area to health wellness centre | | |
| Location | Countess Shopping Centre, Park Road, Killarney. | | |
| Planning Authority Ref. | 2360221 | | |
| Applicant(s) | Michael Hegarty | | |
| Type of Application | Permission. | PA Decision | To grant |
| Type of Appeal | Third Party | Appellant | Michael Casey |
| Observer(s) | None | | |
| Date of Site Inspection | 12/03/2024 | Inspector | Ann Bogan |

1.0 Context

1. Site Location/ and Description.

The proposed development is located in the single storey Countess Road Shopping Centre, which is at the junction of Park Road and Countess Road, within the built up area of Killarney, approximately 1km from the town centre. There is a mix of retail and services uses in the centre, including a pharmacy, household goods shop, Chinese restaurant, bookmakers, a fitness centre, an entertainment centre and also a vacant former Spar convenience store. Uses in the wider vicinity include supermarkets, retail, offices and residential.

The area which is subject to the proposed development is an 84sq m internal retail storage area with access from the western side of the shopping centre, adjoining the BeWell fitness centre.

2. Description of development.

The proposed development involves the change of use of an existing internal retail storage area, 84 sq m in area, to a 'Health Wellness Centre'. It will be accessed via an existing service corridor which opens onto the western elevation of the shopping centre. The existing roller shutter entrance door to the service corridor will be replaced with an accessible door, with name sign above.

3. Planning History.

Nearby units in shopping centre

318725/23 (PA 23/60219) Active first and third party appeals: PA decided to grant permission for change of use of existing retail unit to 2 no restaurant units with ancillary take-way facilities and alterations to front façade. Applicant appealed financial contribution condition. Third party appeal by Michael Casey on grounds that retail use should be retained and an excessive number of fast food outlets/takeaways in the area.

22/1077 Permission granted for change of use from financial services to indoor sports and recreation centre.

19/214 Change of use from retail unit to fitness centre and associated office and reception areas.

4. National/Regional/Local Planning Policy (see attached)

Kerry County Development Plan 2022-2028

- Volume 2 Killarney Town Development Plan

Zoning of site: Mixed Use M4 Built up area

- Volume 6 Appendix 2 Land Use Zoning

Section 1.3.2 Development in Existing Residential/Built Up Areas

5. Natural Heritage Designations

Killarney National Park, Macgillicuddy Reeks and Caragh River Catchment SAC (Site code 000365) and Killarney National Park SPA (Site code 004038) are located within 1km of the appeal site.

2.0 Development, Decision and Grounds of Appeal

6 (a) PA Decision: Grant permission

The Planning Officer concluded that the development would not impact negatively on the existing uses in the shopping centre and would not be out of character with the surrounding area or seriously damage the amenities of property in the vicinity and recommended grant of permission subject to four standard conditions.

6(b) Third Party Observations

A submission was received from the appellant, Michael Casey, stating that he would prefer if it remained a retail store.

7. Third Party Appeal Grounds:

- Would prefer if the facility remained a retail store
- Application and drawings lack detail and information to properly understand or allow proper consideration of what is being proposed
- There is a local suggestion that change of use is to facilitate a drug addiction centre and this use is not appropriately located in a retail building
- The change of use will affect the viability and vitality of other retail units in the vicinity
- Availability of retail units in the area is in short supply and such units should not be lost to retail industry
- Planning authority should support sustainable retail use and not allow loss of such retail units
- This is an important retail centre with good mix of smaller retail units that provide convenience goods to cater for hinterland population

- A Wellness Centre should not be located in this setting. Proposed unit has no windows, room sizes are very confined and layout suggests the use isn't what is understood to be a wellness centre
- Compliance with building regulations cannot be achieved through this design and poor quality centre should not be permitted to protect the end users of the facility

8. PA Response

- None

3.0 Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

10. AA Screening

Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to 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.

4.0 Assessment

4.1. Having examined the documentation submitted with the application and the appeal and taking account of relevant policies and having inspected the site, I consider that the issues arising in the appeal can be addressed under the following headings:

- Principle of the development
- Impact on vitality and viability of the businesses in the area

4.2. Principle of the development

The Countess Road shopping centre is zoned Mixed Use M4 Built Up Area in the Killarney Town Development Plan which is incorporated into the Kerry County Development Plan 2022-2028. A wide range of uses are open for consideration in the M4 zoning. The policy in relation to existing mixed use and residential built up areas is: 'To protect and improve existing/developed/residential areas and to provide facilities and amenities incidental to those areas. A range of additional uses are open to consideration within these areas, where it can be demonstrated that there is a need for such facilities and that it will not affect the predominant use of the area' (Section 1.3.2 Volume 6).

- 4.2.1. The Countess Road shopping centre has been moving over time from predominantly retail uses and a Credit Union, to a greater mixture of uses, including 'lower order' uses such as a fitness centre, entertainment centre, dog grooming, as well as retail uses. It is also experiencing some vacancy, in particular the former Spar convenience which fronted onto Park Road. These changes may have partly resulted from competition from a significant amount of newer retail development in the vicinity, including Aldi and Tesco stores and some additional smaller retail and service units.
- 4.2.2. While the appellant may prefer it to remain in retail use, the Countess Road shopping centre has evolved into a mixed use centre, rather than predominantly a retail centre. The mix of uses has changed but the range of businesses continue to provide services to the surrounding residential areas and the wider community.
- 4.2.3. The proposed use is described as a 'Health Wellness Centre' in the public notices and described in the application form as 'general health and wellness services.' These descriptions cover a wide range of possible uses which require a treatment room or rooms, and involve provision of health and wellness therapies for the body or mind. I consider that such a use would be in accordance with the Mixed Use Built Up area zoning and the existing pattern of development in the area, and is compatible with the mix of uses in the Countess Road Shopping centre and would provide a service for surrounding residential areas and the wider community. I am satisfied, therefore, that the proposed use is acceptable in principle.

4.3. Impact on viability and vitality of existing uses

- 4.3.1. The 84 sq m storage area which is the subject of this application, previously served as a storage area for the nearby vacant Spar shop unit. While this proposal would reduce the area of that unit somewhat, it would not impact on the retail floorspace and it would still be one of the larger units in the centre and it is unlikely to make it unviable for reuse. In that context, note it is the subject of a current application, which is under appeal at present, for subdivision for restaurant use, which excludes the storage area which is the subject to this application.
- 4.3.2. The change of use of the storage area to a Health and Wellness enterprise would bring an additional business to the centre and generate extra footfall which could benefit some of the other existing businesses. There is also a significant amount of parking available at the centre which would be adequate for any extra demand generated.
- 4.3.3. I am satisfied that the change of use of this relatively small scale storage area to a Health and Wellness use would not have a negative impact on the viability or vitality of the existing business in the centre or wider area or have a negative impact on the amenity of surrounding residential areas.
- 4.3.4. The issue of compliance with Building Regulations is outside the scope of this appeal and is a matter for the developer and the relevant authorities.

5.0 Recommendation

- 5.1. I recommend that permission for the development be granted

6.0 Reasons & Considerations

Having regard to the location of the site on lands zoned objective M4 Mixed Use Built Up Area in the Killarney Town Development Plan as incorporated into the Kerry County Development Plan 2022-2028, and the pattern of development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or have a negative impact on businesses or property in the vicinity. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

7.0 Conditions

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| 1. | <p>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 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>Details of the proposed sign shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p> |
| 3. | <p>Adequate space shall be provided within the building for the storage and collection of waste and refuse generated in the building.</p> <p>Reason: In the interest of visual amenity.</p> |
| 4. | <p>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. The contribution shall be paid prior to the 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</p> |

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| | <p>matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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> |
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ann Bogan
Planning Inspector
14th March 2024

Appendix 1 Relevant Policies

Kerry County Development Plan 2022-2028

Volume 2 Town Plans: Killarney Town Development Plan

Site is zoned Mixed Use M4

Volume 6 Land Use Zoning Objective for areas zoned M4: Existing built up area of mixed use.

Description: Provides for a mix of land uses which may have existing buildings in place, brownfield lands and undeveloped greenfield lands within the development boundary.

1.3.2 Development in Existing Residential/Built Up Areas (R2/M2/M4)

In this plan significant areas of lands within the town and village boundaries have already been developed in the Municipal District's settlements. These are known as built up areas and constitute the majority portion of the lands zoned on the zoning maps and are typically zoned as (R2/M2/M4) - Development in Existing Residential/Town/Village Centre/Built Up Areas.

Built up/town and village centre areas include all lands within a development boundary, it includes a mix of land uses which may have existing buildings in place, brownfield lands and undeveloped greenfield lands within the development boundary. In the local area plan, such areas are shown as existing residential (R2) or town/village centre area (M2) or built up area (M4). This approach is consistent with the Myplan classification system and allows a more positive and flexible response to proposals for the re-use/re-development of underused, derelict land or buildings particularly in the older parts of the main towns.

Within predominantly built up areas, development proposals normally involve infill development, redevelopment or refurbishment or changes of use. It is important to recognise that this is part of the cycle of development or redevelopment in settlements that contributes to the character of towns. In many ways, this is more sustainable than continually encouraging growth to concentrate only towards undeveloped areas. Indeed, a mix of harmonious uses is often considered a desirable and attractive characteristic.

It is therefore the policy of the Planning Authority to protect and improve existing/developed/residential areas and to provide facilities and amenities incidental to those areas. There is a range of additional uses open to consideration within these areas where it can be demonstrated that there is a need for such facilities and that it will not affect the predominant use of the area.

Within existing built up areas there will inevitably be some areas of land that are either undeveloped or have some potential to be considered for development. The inclusion of this land within an existing built up area does not imply any presumption in favour of development or redevelopment, unless this would enhance the character and amenity of the area.

While many areas are zoned M4 Built Up Area and many uses are “open to consideration” the council shall have regard to the established uses within the area.

It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area. Development that does not support or threatens the vitality or integrity of the primary use of these existing built up areas shall not be permitted. Within the development boundaries of the town, in areas that are not subject to specific zoning objectives, proposals for development will be considered in relation to the following:

- The objectives of this and any other statutory plan;
- The character of the surrounding area; and
- Other planning and sustainable development considerations considered relevant to the proposal or its surroundings.