



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319248-24

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<b>Development</b>	Change of use of part of ground floor level of an existing GP medical practice into a pharmacy and all associated site works.
<b>Location</b>	Ballyminion / Farranyoogan, Longford, Co. Longford, N39 TH76
<b>Planning Authority</b>	Longford County Council
<b>Planning Authority Reg. Ref.</b>	2360175
<b>Applicants</b>	X Pharmacy Limited.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	X Pharmacy Limited.
<b>Date of Site Inspection</b>	1 <sup>st</sup> May 2024.
<b>Inspector</b>	Dolores McCague

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## 1.0 Site Location and Description

- 1.1. The site is located at Ballyminion / Farranyoogan, Longford, Co. Longford, N39 TH76. The site is located c. 2 kilometres south west of the town centre, in an area known as Flancare Business Park where the site, is part of a complex comprising three business-park style buildings, located on a spur road, within an extensive industrial / warehouse area. The unit in question is a ground floor end unit.
  - 1.1.1. Access is via a series of roundabouts off the road linking the N5 and the N63.
  - 1.1.2. Glenn Riada, an isolated residential estate is to the west.
  - 1.1.3. The site is given as 0.201 hectares.

## 2.0 Proposed Development

- 2.1.1. The proposed development as described in the public notices comprises:

Proposed change of use of part of the ground floor level of an existing GP medical practice into a pharmacy together with associated signage, proposed alterations to existing front façade and all ancillary site works

## 3.0 Planning Authority Decision

- 3.1. **Decision**
  - 3.1.1. The planning authority (PA) decided to refuse permission for two reasons:
    - 1 The land is currently zoned for Social/Community/Education/Public Utility purposes in the Longford County Development Plan 2021-2027. This zoning is intended to: "To primarily provide for educational, health, social, cultural, religious and community facilities." And, while small shops may be compatible with the current zoning as per the Zoning Matrix in the Longford County Development Plan 2021-2027, retail is generally considered to be a Town Core activity and is not considered to be appropriate on the outskirts of the town. Therefore, the proposed development is considered to be contrary to the proper planning and sustainable development of the area.

2. The decision of An Bord Pleanála stated that there was no justification for a pharmacy of a sizeable scale to be located in an industrial unit. Despite the change in zoning from Industrial to Social/Community since the initial ruling, the question of the appropriateness of a sizeable pharmacy outside of the town centre. The precedent as set in the decision stated that the proposal represented “piecemeal and inappropriate development and would give rise to the co-location of incompatible uses which would be contrary to the proper planning and sustainable development of the area.” The Planning Authority considers this to be the case with this proposal, and as such is considered to be contrary to the current zoning and therefore to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Retail is generally considered to be a Town Core activity and is not considered to be appropriate on the outskirts of the town. Furthermore, Section 64 of the Pharmacy Act 2007 states that:

“(1) A registered retail pharmacy business and a medical practice shall not be carried on—

(a) in the same premises as each other, or

(b) in premises which, although separate—

(i) are such that public access to the one is available only by way of the other, or

(ii) share a common public entrance with each other, if there is an arrangement of the kind described in subsection (2).

(2) An arrangement is of the kind referred to in subsection (1) if it—

(a) is between the owner of the registered retail pharmacy business referred to in that subsection or the registered pharmacist in whole-time charge of that business and a registered medical practitioner practising in the medical practice referred to in that subsection, and (b) provides for, acknowledges or regulates a financial benefit to any of them arising from or facilitated by the co-location or juxtaposition described in that subsection.

## Further Information

1 re. Question 6 in the application form (to include the Company Directors).

2. re. the Pharmacy Act 2007

3 re. justification of the need for a retail use, which is more suitable for Town Core zoning.

### 3.2.2. Other Technical Reports

### 3.3. **Third Party Observations**

3.3.1. A third party observation has been read and noted.

### 3.4. **Further Information**

3.4.1. A further information request issued, 07/12/2023

1 Question 6 in the application form has been omitted. You are now required to submit a complete application form, with Question 6 completed in full.

2. The Pharmacy Act 2007 does not permit a pharmacy and a GP practice to share a common entrance, or to access one by way of the other, where there is an arrangement between pharmacist and the medical practitioner. You are now required to submit satisfactory evidence to demonstrate that this proposal complies with the requirements of the Pharmacy Act 2007.

3. Given the location on the outskirts of the town, you are now required to justify the need for a retail use, which is more suitable for Town Core zoning, being located at an out-of-town location.

3.4.2. A further information response was received, 07/12/2023:

point 1, the applicant has resubmitted Question 6 of the application form, which is completed in full.

point 2, the applicant has submitted revised site layout plan demonstrating how the proposal can comply with the Pharmacy Act 2007.

point 3, the applicant has submitted a letter stating that there is a need for this retail outlet at this location.

## 4.0 Planning History

08/656 - Permission was granted for the change of use of industrial /warehouse building to medical centre with modifications to elevations and alterations to car-parking.

07194 – Permission was granted for construction of a single storey industrial/warehouse building comprising of 2 units with offices, parking spaces, loading/unloading bays and all associated site works and services. Permission also sought for the revised site layout to accommodate additional parking spaces for the proposed building from previous planning ref: 04/970

04970 – Permission was granted for 11 No. light industrial units with carparking, access roads, entrances and all associated site works and infrastructure. Condition no. 2 restricted the use to warehousing / storage repository or light industry.

00402 – Outline permission was granted for construction of residential, commercial and mixed-use development.

241029, PA Reg Ref 12/165 - Retention of elevational changes to primary health care centre at Ballyminnion/Faranyoogan, Longford, Co Longford; granted.

238809, PA Reg Ref 10/212 application for:

Change of use of Block A containing 4 units permitted for industrial and warehousing use: unit 1 to dentist, units 2 & 3 to specialist consulting suites and unit 4 to pharmacy and independent living offices,

Change of use of Block C containing 2 units permitted for industrial and warehousing use: unit 10 to fitness gym and unit 11 to a health promotion unit, and Modifications to internal layouts and elevations to accommodate proposed changes of use with all associated works and site services, including revised car park layout,

Change of use of Block A containing 4 units permitted for industrial and warehousing use: unit 1 to dentist, units 2 & 3 to specialist consulting suites and unit 4 to pharmacy and independent living offices,

Change of use of Block C containing 2 units permitted for industrial and warehousing use: unit 10 to fitness gym and unit 11 to a health promotion unit, and modifications to internal layouts and elevations to accommodate proposed changes of use with all

associated works and site services, including revised car park layout; refused by the Board.

236051 PA Reg Ref 09/388 - change of use of unit no. 4 (Reg. Ref. No. 04/970) to pharmacy unit with modifications/change to serve adjoining medical centre (Reg. Ref. No. 08/656) and all associated site works; refused by the Board

## 5.0 Policy Context

### 5.1. Development Plan

5.2. The Longford County Development Plan 2021-2027 is the operative plan.

5.2.1. Relevant provisions include:

The site is zoned - Social/Community/Education/Public Utility - to primarily provide for educational, health, social, cultural, religious and community facilities. This zoning encompasses community uses (such as schools, churches, OPDs etc.), public utility and social/administrative designations such as the Fire and Garda Stations.

Expansion of these services will be facilitated where needed and compatible with adjoining land uses.

Town Core: To provide for the development and enhancement of town core uses including retail, residential, commercial, civic and other uses. The purpose of this zoning is to protect and enhance the special character of the town centre and to provide for and improve retailing, residential, commercial, cultural and other uses appropriate to the centre of Longford. This zoning provides for the consolidated development and growth of the town centre, allowing for a broad range of compatible and complementary uses which will be encouraged to locate in this area.

Development will be expected to contribute to a dynamic, vibrant and pedestrian focused town core with a strong urban design approach. The Council will encourage the appropriate re-use, adaptation and regeneration of buildings, backlands, derelict and obsolete lands including residential development above retail and commercial premises in the town centre.

CPO 3.6 Provide for a reduction in energy demand and greenhouse gas emissions by providing for consolidated future development which supports sustainable travel patterns in line with the County Core Strategy.

CPO 5.3 Provide for alternative forms of transportation and associated infrastructure in order to reduce the dependency on the private car, such as public transport initiatives and infrastructure for cyclists and pedestrians.

CPO 7.3 Provide alternatives to the car and to prioritise and promote cycling and walking in the design of streets and public spaces.

CPO 6.20 Develop an Action Plan for Town Centre Renewal which brings redundant, under-utilised and derelict land and buildings back into active use as a first preference ahead of peripheral areas, and which reduces the need for greenfield development, supporting the urban fabric and reusing existing resources.

CPO 6.25 Promote access to sustainable transport and availability of alternative transport modes such as walking and cycling between strategic areas and services.

The Flood Report in Volume 4 of the Plan shows this area as having benefitted from drainage.

### **5.3. Longford Town Local Transport Plan (October 2023)**

- 5.3.1. This is a non-statutory plan which is intended to inform the Local Area Plan (LAP) that is being prepared for Longford Town and Environs.
- 5.3.2. It notes that almost a third of the population in Longford Town do not own a car.
- 5.3.3. It's vision is to ensure that Longford is an attractive place to live, work and visit through the appropriate integration of transport and land use, with a primary focus on ease of access for all by sustainable transport, based on a hierarchy of users considering pedestrians first then cyclists, followed by public transport, goods vehicles and lastly private vehicles.
- 5.3.4. The subject site is not in an area identified in the pedestrian strategy, cycling strategy, permeability strategy or public transport strategy.

### **5.4. Design Manual for Urban Roads and Streets**

- 5.4.1. The introduction to this manual states that:

Better street design in urban areas will facilitate the implementation of policy on sustainable living by achieving a better balance between all modes of transport and road users. It will encourage more people to choose to walk, cycle or use public



transport by making the experience safer and more pleasant. It will lower traffic speeds, reduce unnecessary car use and create a built environment that promotes healthy lifestyles and responds more sympathetically to the distinctive nature of individual communities and places.

A fundamental principal of the guidelines is the user hierarchy that promotes and prioritises sustainable forms of transportation:

To encourage more sustainable travel patterns and safer streets, designers must place pedestrians at the top of the user hierarchy. Walking is the most sustainable form of transport. Furthermore, all journeys begin and end on foot. By prioritising design for pedestrians first, the number of short journeys taken by car can be reduced and public transport made more accessible. The need for more walkable communities is also an issue of social equity as it is the poorest and most vulnerable in society, including children, the elderly and the disabled for whom car travel is less of an option.

## **5.5. Natural Heritage Designations**

- 5.5.1. The nearest Natura site is Brown Bog SAC (site code 000442) located c2.5km straight line distance from the site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A first party appeal against the decision to refuse has been submitted. The grounds include:

The application site of 0.201ha extends from the front elevation of the unit and includes car parking to the rear. There is also dedicated off-street car parking to the front of the unit, and all the other units within the site.

The planning history stated in the planning report was incomplete:

The parent permission for 11 units in 2005 was for an overall business park.

Change to a medical centre that included a primary care centre and a GP practice was granted under ref 08/656.

Permission was granted under ref. 12/165 for the retention of the external changes and under ref. 12/3 for the development of a first floor mezzanine over the ground floor of the GP practice.

Under ref 20/100 permission was granted for new signage and occupational health centre to the west.

The initial application included a door that linked the pharmacy internally to the front waiting room of the GP practice, this was altered in response to the FI request.

Responding to reason No 1

- This stems from an inaccurate and misleading interpretation of the land use zoning.
- The proposed use is permitted in principle.
- When the County Development Plan was adopted, the health care assessment of Longford states that the town has a relatively good mix of retailing but it has undergone a similar demise to other centres as lower order retailing has replaced higher order retail in the town.
- The development plan emphasises regeneration and the progression of opportunity sites as part of the strategy to turn the central area around. Ballyminion area is identified as an area of untapped potential, and for regeneration.
- The planning system should not inhibit competition or preserve existing commercial interests. Planning authorities are required to assess the likelihood of impact on the vitality and viability of the town centre as a whole and not on existing traders.
- The scale of the pharmacy is small and would not compete to any degree with existing pharmacies in the town centre that could lead to the degradation of the town centre.
- There is insufficient evidence to demonstrate that the vitality and vibrancy of the town centre would be adversely affected.
- The County Development Plan recognises that the draft Ballyminion Regeneration Masterplan 2019 'sets out to stimulate physical development

that is underpinned by a commitment to community development and environmental sustainability and is recognised as an area of strategic importance in the Longford Local Area Plan.

- A restriction could be placed on the floor space dedicated to the retail pharmacy.

Responding to reason No 2

- The rationale and justification are unreasonable given the time that has passed. The previous application was in a wholly different block not integrated with an existing medical centre that was in operation; and the land use zoning was different.
- They refer to the more recent decision in Listowel (310150) which overturned Kerry County Council's decision to refuse. That decision considered the nature and scale of the proposed development. It is significantly smaller under this appeal. The Board concluded that it would not adversely impact on the vitality and viability of the town centre.
- The proposed 63.5 sq m scale compares to 126.5 sq m in Kerry, which is a precedent.
- They also refer to a recent decision in Kilkenny (317172) which was a split decision based on material contravention.
- The Council have failed to clarify how the proposed use is contrary to the current zoning; and have not upheld the zoning.

## **7.0 Assessment**

- 7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment / AA screening, impact on the town centre, sustainable travel, zoning and precedent and the following assessment is dealt with under those headings.

### **7.2. Appropriate Assessment / AA Screening**

- 7.2.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either

on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision.

7.2.2. Appendix 3 to this report details my assessment under this heading.

7.2.3. There is no likelihood of impact on any Natura site.

### **7.3. Impact on the Town Centre**

7.3.1. It was evident from my site inspection that Longford town has a significant amount of vacancy. Loss of commercial uses to outlying areas, such as the extensive areas of land zoned mainly industrial / commercial / warehousing, has contributed to the number of vacant premises, and the decline in vitality of the town centre.

7.3.2. Regarding the grounds of appeal which states that there is insufficient evidence to demonstrate that the vitality and vibrancy of the town centre would be adversely affected. Securing the vitality and vibrancy of the town centre is a core objective of planning policy. Any development which would detract from the town centre and core retail area would be of concern; such that it is for the proposer to prove that the vitality and vibrancy of the town centre would not be adversely affected. Not the other way around.

7.3.3. I concur with the planner's report that retail uses, and higher order retail uses in particular, such as the subject use, should be located in a Town Core and that such use is not appropriate on the outskirts of the town. To permit the proposed change of use, would contribute to the process of decline in the town centre, by accommodating a town centre use in a location remote from the centre. The proposed use should be located in the town centre; the vitality and viability of which is important to the community. Impact on the Town centre is a reason to refuse permission.

#### **7.4. Sustainable Travel**

- 7.4.1. The achievement of sustainable travel patterns is enshrined in policy, including the County Development Plan: principally the desirability for more people to choose to walk, cycle or use public transport.
- 7.4.2. The Design Manual for Urban Roads and Streets set outs a user hierarchy which promotes and prioritises sustainable forms of transport. This hierarchy of users is referred to in the Longford Town Local Transport Plan. It considers pedestrians first, then cyclists, followed by public transport, goods vehicles and lastly private vehicles. The Longford Town Local Transport Plan notes that almost a third of the population in Longford Town does not own a car. A car dependent development, such as that proposed, puts such users at a disadvantage.
- 7.4.3. The proposed change of use would be car dependent and contrary to the objective of securing sustainable travel patterns and would be disadvantageous to a large segment of the population of Longford town who are not car owners, and this is a reason to refuse permission.

#### **7.5. Zoning**

- 7.5.1. The grounds of appeal states that reason number 1 incorrectly states that retail is generally considered to be a Town Core activity and is not considered to be appropriate on the outskirts of the town; this stems from an inaccurate and misleading interpretation of the land use zoning; the proposed use is permitted in principle.
- 7.5.2. In the land use matrix for Social/Community/Education/Public Utility, retail (comparison) is not permissible. A local shop is permissible. The proposed use is equivalent to comparison retail. It is a higher order retail use and should be located in the town centre. It is a permissible use in the town core zone.

#### **7.6. Precedent**

- 7.6.1. The grounds of appeal refers to previous Board decisions, which they cite as precedent. There is reference to a case in Listowel, Ref 310150. I note that the location was 500m from the main shopping street. The proposed development would

be c2 kilometres from the town centre. In any case precedent does not account for the unique set of circumstances that surrounds each individual site.

## **8.0 Recommendation**

8.1. In accordance with the foregoing I recommend that planning permission be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1 The site is located in an area zoned for Social/Community/Education/Public Utility in the Longford County Development Plan, 2021 – 2027 where comparison retail use is not normally permitted; and is remote from the town centres where such use is permitted; notwithstanding the adjoining use as a medical practice, it is considered that the proposed change of use to a pharmacy would adversely affect the vitality and viability of the town centre, would be contrary to the development plan and to the proper planning and sustainable development of the area.

2 The site is located in a predominantly industrial area at the periphery of the town and at a significant distance from the main established residential community, such that visiting members of the public would depend on the use of cars, and those not owning cars would be disadvantaged; in addition, by discouraging the choice to walk, cycle or use public transport, the proposed development would be contrary to the objective of achieving sustainable travel patterns and would therefore be contrary to the proper planning and sustainable development of the area.

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.

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Planning Inspector

3<sup>rd</sup> September 2024

Appendix 1 EIA screening

Appendix 2 AA screening

Appendix 3 Photographs

Appendix 4 Longford County Development Plan 2021 – 2027 extracts.

Appendix 5 Longford Town Local Transport Plan extracts.

Appendix 6 Design Manual for Urban Roads and Streets extracts.

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	319248		
<b>Proposed Development Summary</b>	Change of use of part of the ground floor level of an existing GP medical practice into a pharmacy together with associated signage, proposed alterations to existing front façade and all ancillary site works		
<b>Development Address</b>	Ballyminion / Farranyoogan, Longford, Co. Longford,		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	/
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	/		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>	/	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4



**4. Has Schedule 7A information been submitted?**

No		<b>Preliminary Examination required</b>
Yes		<b>Screening Determination required</b>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix 2**

**Template 2: Screening the need for Appropriate Assessment  
Screening Determination**

I have considered the project: change of use of part of the ground floor level of an existing GP medical practice into a pharmacy together with associated signage, proposed alterations to existing front façade and all ancillary site works, in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located at at Ballyminion / Farranyoogan, Longford, Co. Longford, s.

The proposed development comprises change of use of part of the ground floor level of an existing GP medical practice into a pharmacy on zoned serviced land.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Nature of works: small scale and nature of the development,
- The serviced nature of the brownfield site,
- Taking into account screening report and determination by PA.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.