



An
Bord
Pleanála

Inspector's Report

ABP-322028-25

Development	Change of use from Cafe to Veterinary clinic
Location	Unit 1, Abelard Square, Phoenix Park Racecourse, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW24A/0421E
Applicant(s)	Susan Barry
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Patricia Byrne
Observer(s)	None
Date of Site Inspection	30 th May 2025
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The subject site relates to Abeland square which is located to the immediate north Phoenix Park. The site is situated in the southeast corner of a five-story mixed-use development. This development consists of commercial units on the ground floor and apartment units on the upper floors. The subject site is currently a vacant commercial unit that was previously granted planning permission for a café/restaurant under Reg. Ref. FW16A/0100. The unit features extensive glazing on its southern and eastern elevations. The surrounding area is built up and characterised by large mixed-use developments with commercial and retail uses at ground floor levels, forming part of the wider Phoenix Park Racecourse redevelopment site. The stated site area is 0.016 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for:
- a) Change of Use of previously permitted café/restaurant within Unit 1, Phoenix Park Way to a veterinary clinic (156.5 sqm) located on the ground floor of the five-story mixed-use development.
 - b) Internal modifications will be carried out throughout the ground floor of the proposed veterinary practice.
 - c) External Signage: External signage (4.13 sqm) will be installed on the front elevation facing Phoenix Park Way.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission on the 17th of February 2025 subject to the 9no. conditions:

Notable conditions include:

6. The noise mitigation measures in accordance with the details submitted with the application shall be installed prior occupation of the Veterinary Clinic unless otherwise agreed in writing with the Planning Authority.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Requested for Further Information

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested further information on the 26th of November 2024 as follows:

Item 1:

(a) A revised layout showing 3.no car parking spaces designated for the development within the red line boundary.

(b) Provide a minimum of 3.no staff lockers for staff that run, walk or bike to work within the internal layout. Details to be submitted

(c) Provide a minimum of 3.no long-stay and 3.no short-stay bicycle parking spaces. The location of short-stay bicycle parking spaces should be identified and should ideally be situated no further than 15m from main entry point.

Further Information Received

Further information was submitted on 27th of January 2025 as follows:

Item 1:

(a) A revised layout was submitted, showing 3 designated car parking spaces (nos. 54-56) within the red line boundary. A supporting letter from the building management company (Wyse Property Management) confirmed the arrangement.

(b) A revised floor plan was submitted, illustrating 4 staff lockers located in the staff meeting room.

(c) 12 short-stay bicycle parking spaces were provided along Phoenix Park Way as part of the original planning permission (Reg. Ref. FW16A/0100), with more than 3 located within 15 meters of the front door of Unit 1. 16 additional short-stay bicycle parking spaces are located to the south of Block B, less than 15 meters from the rear entry door to Unit 1 through the service yard. Long-stay bicycle parking spaces are available in the covered and secure service yard to the rear of Unit 1, with 3 spaces dedicated to serve Unit 1.

3.2.2. Other Technical Reports

- Water Service Section – No objection
- Transportation Section – No objection following the submission of further information.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One submission was received objecting to the application making the following points:

- Noise arising from the proposed change of use.
- Waste generated from the development.
- Concerns about dogs soiling in the area.

4.0 Planning History

- 4.1. **PA REF: FW16A/0100:** Refers to a grant of permission on the 27th of February 2017 for construction of a 1 no. 4-5 story mixed-use building (Block 2) with retail units, a retail/café unit, and a creche at the ground floor level, along with apartments on the upper floors; 1 no. 5-story apartment building (Block 7). 1 no. 3-4 story apartment building (Block 8). 1 no. 5-story stair/lift block providing bridge link access to Blocks 7 & 8. Parking for 32 cars in a basement below Block 2 and a surface car park for 68 cars. Associated site works, including landscaped open spaces, bicycle parking, and bin storage.

5.0 Policy Context

5.1. Development Plan

Fingal County Development Plan 2023 – 2029

The Fingal County Development Plan 2023 – 2029 is the relevant Development Plan for the subject site.

The subject site is zoned “RS – Residential” which has zoning objective, *“to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity”*.

Objective DMSO84 – Location of Larger Medical Practices

Refers to larger scale and group medical practices shall be located in Rural Villages, Local Centre, Town and District Centre, Metro and Rail Economic Corridor and Major Town Centre zonings. They shall not have negative impacts in terms of generating overspill of car parking, traffic hazard, negative impact on adjoining residential uses, and shall complement the existing uses and buildings and should have only modest signage. In the case of veterinary surgeries, full details of all services provided on site shall be submitted including details of overnight facilities (including kennels/staff accommodation) and out of hours services shall be submitted together with noise mitigation measures where appropriate.

Table 14.19: Car Parking Standards.

5.2. Natural Heritage Designations

The subject site is not located within any Natura 2000 sites.

There are no Natural Heritage Area's (NHA) or Proposed Natural Heritage Area's (pNHA) Area in proximity to the site.

6.0 Environmental Impact Assessment Screening

- 6.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal (GOA)

A third-party appeal by Patricia Byrne has been lodged against the Planning Authority's decision to grant permission. The grounds of appeal can be broadly summarised as follows:

Residential Amenity:

- Concerns raised related to the congregation of people, pets, and traffic in the vicinity of the proposed veterinary clinic, which could indirectly imply potential noise disturbances affecting nearby residents.

Traffic & Parking:

- The County Development Plan requires two parking spaces per consultation room, but these are not provided in the application.

- Concerns expressed about Increased traffic and parking demand due to clients, staff, and emergencies are anticipated.

Other:

- Radiological Safety: The presence of an X-ray/imaging room poses potential dangers to residents and the local community, with no safety or mitigation measures identified in the application.
- Dead Animal Management: The handling, storage, and removal of dead animals (euthanized or deceased) have not been addressed, raising concerns due to the proximity of food establishments and residential amenities.
- Congregation of Patients: The gathering of waiting patients outside the entrance could lead to issues such as dog excrement and disturbances for nearby residents.

7.2. Planning Authority Response

Response received dated 10th of March 2025 requesting the Board to uphold the decision of the Planning Authority (PA). Radiological process and euthanised animals are governed by separate legislation outside of Planning Control (Environmental Health). The behaviour of animals beyond the redline boundary is beyond the applicant's control. The noise mitigation measure proposed are deemed acceptable. The proposed parking of 3 spaces is acceptable. The Transportation Planning Section indicated no objection to the development. If the appeal is successful, provisions for financial contributions, bond/cash security of 2 or more units, tree bond, and contributions for play provision facilities should be included in conditions for approval.

7.3. Applicants Response

None received

7.4. Prescribed Bodies

None

7.5. Observations

None received.

8.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Residential Amenity
- Traffic & Parking
- Other matters

8.1. Principle of Development

- 8.1.1. The site is zoned 'RS Residential' with an objective to *"Provide for residential development and protect and improve residential amenity"*. I note a veterinary clinic is neither explicitly "permitted" nor "not permitted" under this zoning. Guidance specified in the Plan refers to uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.
- 8.1.2. I note permission was originally granted for an apartment block with retail and commercial unit to the ground floors. The site is also opposite other retail and commercial units granted under planning ref: FW16A/0100. In that context, the immediate area is defined by a parade of shops and in my opinion a local centre. Objective DMSO84 (Location of Larger Medical Practices) of the Plan refers to veterinary surgeries shall be located in Local Centres, Town and District Centre, Metro and Rail Economic Corridor and Major Town Centre zonings. There are no other

veterinary clinics in the vicinity, and the proposed veterinary clinic in my opinion would provide a valuable service to existing and future residents, enhancing the amenity of the residential area in accordance with the zoning objective. Therefore, it is my view that the principle of development is acceptable subject normal planning considerations.

8.2. Residential Amenity

- 8.2.1. The grounds of appeal (GOA) do not explicitly mention noise as a concern. However, concerns raised related to the congregation of people, behaviour of animals in the vicinity could imply potential disturbances for nearby residential amenity. Additionally, the impact on the peaceful enjoyment of the community is noted, which may indirectly encompass noise concerns. The Planning Authority (PA) acknowledges the presence of apartment units above the subject unit. However, the PA considered with the proposed noise mitigation measures and controlled operating hours, the development is not expected to adversely impact neighbouring residential amenity.
- 8.2.2. I have had regard to the relevant provisions of the Fingal Development Plan 2023–2029, in particular objective DMSO84 which refers to veterinary surgeries and medical practices should be located in designated zoned areas and must avoid causing negatively affecting nearby residences. For veterinary surgeries, full details of services, including overnight facilities and out-of-hours operations, must be provided along with appropriate noise mitigation measures where necessary.
- 8.2.3. I note the veterinary clinic will operate from 9am to 7pm Monday to Friday and 10am to 4pm on Saturdays, with no operation on Sundays or Public/Bank Holidays. No out-of-hours service is proposed, and no animals will be kept overnight. The Planning report submitted with planning application details the use of the premise would operate on an appointment basis with an average of four patients per hour (c.30 patients per day). Furthermore, I note the applicant has proposed noise mitigation measures, including 200 mm acoustic insulation roll within the ceiling void and 50 mm acoustic insulated plasterboard lining to all party walls. These measures in my opinion would mitigate potential noise impacts for residents in the upper apartments and I consider

are deemed appropriate and demonstrate compliance with Objective DMSO84 of the Fingal Development Plan 2023-2029 which refers to veterinary surgeries and that full details of services, including overnight facilities and out-of-hours operations, must be provided along with appropriate noise mitigation measures where necessary for veterinary surgeries. Should the board be minded to grant permission I consider it appropriate to attach hours of operation and noise mitigation conditions in the interest of residential amenity.

8.3. Traffic & Parking

- 8.3.1. The GOA raises several concerns about traffic and parking outlining clients typically bring animals to veterinary practices by car, as patients are often ill and unable to walk. This will increase traffic and demand for parking spaces in the locality. The Transportation Planning Section of FCC raised no objection to the proposed development following the submission of further information.
- 8.3.2. Table 14.19 car parking standards of the Plan specifies a maximum of 1 car parking space per consulting room. The development proposes 3.no. consulting rooms, which requires a maximum of 3 parking spaces. I note the applicant submitted a site parking plan DWG NO F102 received 27/01/25, illustrating 3.no parking spaces (nos. 54-56) located in the undercroft car park to the south and a letter of consent from the building management company (Wyse Property Management) confirming this arrangement. Furthermore, I note there is parallel parking along Phoenix Park Avenue to the north is available, providing further options for visitors. I am satisfied that the car parking requirements would be sufficient to accommodate the operational needs of the proposed development in accordance with table 14.19 of the Plan and that a material contravention of the plan does not arise in this instance.

8.4. Other Matters

Radiological Process/Operational requirements

- 8.4.1. The GOA has outlined that the presence of an X-ray/imaging room poses potential dangers to residents and the local community. That the handling, storage, and removal of dead animals (euthanised or deceased) have not been addressed, raising concerns due to the proximity of food establishments and residential amenities. Furthermore, the GOA consider Veterinary clinics generate clinical and hazardous waste (e.g., blood, bodily fluids, body parts, drugs, contagious materials, and radiological waste), which require specialised handling. I acknowledge the GOA concerns however waste management and the operational requirements of a veterinary clinic are governed by separate legislation outside of Planning Control (Environmental Health) and thus need not concern the Board for the purposes of this appeal.

Animal behaviour Congregation of Patients

- 8.4.2. The GOA consider the gathering of waiting patients outside the entrance could lead to issues such as dog excrement and disturbances for nearby residents. Whilst I note the GOA concerns the behaviour of animals is beyond the applicant's control and thus need not concern the Board for the purposes of this appeal.

9.0 Appropriate Assessment Screening

- 9.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in a fully serviced urban area and the subject site is not located within any Natura 2000 sites. The proposed development comprises the change of use of the permitted café /restaurant to a veterinary practice.
- 9.2. No nature conservation concerns were raised in the planning appeal.

9.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:

- Distance from and weak indirect connections to the European sites
- No significant ex-situ impacts on wintering birds
- Small scale and nature of the development

9.4. I conclude, 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 (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

10.1. I recommend that PERMISSION should be GRANTED for the reasons and considerations as set out below.

11.0 Reasons and Considerations

11.1. Having regard to the nature and location of the development to be carried out, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the zoning objective for the site, the provisions of Fingal Development Plan 2023 – 2029 in particular Objective DMSO84 which refers to veterinary surgeries shall be located in local centres, would comply with table 14.19: Car Parking Standards, would not seriously injure the residential amenity of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried 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 and the development shall be retained in accordance with the agreed particulars.

Reason: **In the interest of clarity.**

2. The noise mitigation measures in accordance with the details submitted with the application shall be installed prior occupation of the Veterinary Clinic unless otherwise agreed in writing with the Planning Authority.

Reason: **In the interest of residential amenity.**

3. The Veterinary Clinic hereby permitted shall operate within the hours of 9am to 7pm Monday to Friday and 10am to 4pm on Saturday. The Veterinary Clinic shall not operate on Sundays or on Public/Bank Holidays.

Reason: **To ensure that the development shall be in accordance with the permission, and that effective control be maintained.**

4. No animals shall be kept overnight unless otherwise agreed in writing with the Planning Authority.

Reason: **In the interest of residential amenity.**

5. 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.

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.

Gerard Kellett
Planning Inspector
30th May 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322028-25
Proposed Development Summary	Change of use from Cafe to Veterinary Clinic
Development Address	Unit 1, Abelard Square, Phoenix Park Racecourse, Dublin 15
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input checked="" type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	
<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____