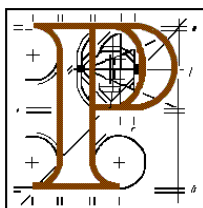


## An Bord Pleanála



### Inspector's Report

**Appeal Ref. PL 07.245658**

**Location:** Charlies Bar, Main Street, Loughrea, County Galway.

**Proposed Development:** Retention of alterations to a protected structure 'Charlies Bar' and permission for change of use of second floor to ancillary storage and staff facilities.

#### **Planning Application**

Planning Authority: Galway County Council.

Planning Authority Reg. Ref.: 15/448

Applicant: Dave McDonnell, Brian Winters and Dara Keary

Application Type: Retention permission and permission

Planning Authority Decision: Refuse permission

#### **Planning Appeal**

Appellant(s): Dave McDonnell, Brian Winters and Dara Keary.

Observers: None

Date of Site Inspection: 27<sup>th</sup> January, 2016

**Inspector:** Stephen Kay

## **1.0 Site Location and Description**

- 1.1 The appeal site is located on the northern side of Main Street approximately 20 metres west of the junction with Church Street which leads southwards to the former Church of Ireland (40 metres), a protected Structure which is now the local library.
- 1.2 The building on the appeal site is a three storey structure dating from the late 18<sup>th</sup> Century. The site forms part of a terrace of units with a bakery/coffee shop to the east and an estate agent to the west. The appeal building is in use as a public house (Charlie's Bar) and includes an archway on the western side. The site is stated to be 0.04 hectare and the floor area of the existing structure is stated to be 460 square metres.

## **2.0 Proposed Development**

The proposed development comprises a number of elements as follows:

- The retention of the outdoor smoking area to the rear of the premises. The retention sought in this area includes some amendment to the original layout with part of the area that was previously covered now being open. In addition, the application states that the outside bar which was previously operations will no longer be used and that retention is not sought for this element.
- The retention of the change of use of the first floor of the premises to meeting / function room. The first floor has been changed from its original use as a retail use to as an extension to the bar area. As part of this change of use a significant amount of work has been undertaken to the first floor however the application is only for the change of use to use as a bar. The stated area of the first floor is 135 sq. metres.
- As part of the change of use of the first floor, retention permission is also sought for the retention of the rear external staircase and balcony which lead from the first floor to the outdoor smoking area.
- Planning permission is also sought for the change of use of the second floor to ancillary storage and staff facilities.

### **3.0 Planning History**

The following planning history relates to the appeal site and surrounding lands:

#### ***Appeal Site***

Galway City Council Ref. 13/918; ABP Ref. PL07.242711 – Permission refused by the Planning authority and decision upheld on appeal for the change of use of the first floor of premises to public bar, toilets and storage, retention of escape stairs and balcony at first floor level, retention of beer garden, smoking and storage area at ground floor level (GFA to be retained 249.52 sq. metres). Permission refused by the Board for two reasons relating to unacceptable intensification of use on the site which would, by virtue of noise and general disturbance, seriously injure the amenities of residential properties in the vicinity and secondly that the proposed development would have a material and adverse impact on the character and setting of the protected structure on site.

Galway City Council Ref. 06/4781; ABP Ref. PL07.221567 – Permission refused by the Planning authority and decision upheld on appeal for the reconstruct and extend an existing public house (protected structure) to include a nightclub with a basement level and reconstruction and conversion of a dwelling house above to offices and toilets and all associated services Permission refused by the Board for the following reason:

1. It is considered that, by reason of its proposed use and proximity to adjacent residential properties and site boundaries, the proposed development would seriously injure the amenities of the area and of property in the vicinity, by reason of noise and disturbance, and would, therefore, be contrary to the proper planning and sustainable development of the area.

### **4.0 Planning Authority Assessment and Decision**

#### **4.1 Internal Reports**

Planning Officer – The initial report of the planning officer notes the objection received from the adjoining property owners and the planning history of the site. The development is considered to be compatible with the zoning of the site and the established use. comments of the conservation officer are also noted. An initial report recommends that further information be requested. A second report subsequent to the issuing of further information recommends that permission be refused and is consistent with the Notification of decision which issued.

Conservation Officer – notes the fact that the property is included on the record of protected structures and is included within an ACA and is included within the zone of archaeological potential. Stated that these facts aren't acknowledged in the application. Notes that in 2006 the current applicants retained John Yates Conservation to undertake a

study of the building which noted elements of importance and recommended that works be recorded and that some elements be retained. These measures were considered acceptable however, none of these recommendations were implemented. Also noted that pvc windows have been inserted into the front elevation.

The application was referred by the Board to An Chomhairle Ealaion and the Development Applications Unit of the DAHG. No response to these referrals was received within the time period specified.

#### **4.2 Request for Further Information**

Prior to issuing an notification of decision the following items of further information were requested from the Planning Authority:

1. Clarification regarding the current condition of the roof and how it is proposed to manage the second floor into the future. Proposals for the replacement timber, appropriately detailed timber sliding sash windows for consideration.
2. Clarification regarding the hours of operation of the proposed function room.
3. Proposals for compliance with the provisions of the development plan relating to car parking.

#### **4.3 Response to Further Information**

The following is a summary of the main issues raised and information provided in the response to further information submitted:

- That the site is located within an ACA, is a protected structure and is located within the zone of archaeological protection.
- That the building was re roofed in 2013 and the windows replaced with uPVC. The roof is therefore in good condition.
- That it is recommended that the windows would be replaced with sliding sash windows and that given the type of window proposed double glazed units could be acceptable.
- That the opening hours of the function room coincide with those of Charlies Bar and are 10.30 to 11.30 pm Monday to Thursday, 10.30am to 12.30pm Saturday and 12.30 – 11.00 pm on Sunday.
- That on the basis of the car parking standards there would be a requirement for 18 no. car parking spaces. Given the location of the site in the town centre and the availability of on street parking and other car parks in the vicinity it is not considered necessary to provide parking on site.

#### **4.4 Notification of Decision**

A Notification of decision to Refuse Permission was issued by the Planning Authority and the following summarises the reasons for refusal cited:

1. That the cumulative impact of the overall development is considered to be excessive in scale relative to the floor area of the original public house and would represent an unacceptable intensification of the use and would seriously injure the residential amenities of surrounding properties.
2. That in the absence of satisfactory evidence of the impact of the proposed development on the protected structure that the development would have a material and adverse impact on the character and setting of this historic building.

#### **5.0 Grounds of Appeal**

A first party appeal has been submitted and the following is a summary of the main issues raised in this appeal submission:

- That the outdoor smoking area has been greatly reduced in size since the previous refusal of permission by An Bord Pleanála. It is stated that the smoking area has been reduced from a covered area of c. 56 sq. metres previously to the current c. 32 sq. metres. It is also stated that there is now no serving of alcohol in the outside smoking area.
- That the first floor function room does not open past the normal pub closing times of 11.30 Monday to Friday, 12.30 on Saturdays and 11.00 on Sundays (with additional 30 minutes drinking up time). Submitted that these opening hours are reasonable for a town centre location.
- That the first party is willing to have restrictions / controls on noise levels from the outdoor smoking area imposed by condition.
- That the application was accompanied by a report from a historic buildings consultant which concludes that the alterations to the protected structure were minimal, that there were no substantial internal changes and that alterations at first floor level replaced already altered, damaged or unfit elements. This is directly contrary to stated reason for refusal No.2 which states that the development for which retention is sought would have a material and adverse impact on the character and setting of this important building.

- That during the course of the application and in response to the further information request of the Planning Authority, details of replacement sliding sash windows were submitted.
- That as per the report of the conservation consultant, the works undertaken to the first floor did not enhance the character of the structure they did not detract from the space either.
- That the applicant was not afforded an opportunity in the FI to address the statement of the Planning Authority in the refusal of permission that there was an absence of satisfactory evidence regarding the impact of the development on the protected structure.
- That the architectural heritage impact assessment undertaken by the consultant for the applicants in November 2014 was in compliance with DC standard 43 and Part IV of the Planning and Development Act, 2000.
- That the Architectural Heritage Protection Guidelines (section 7.3) acknowledges the importance of keeping a protected structure in use.

## **6.0 Response Submissions**

### **6.1 Planning Authority Response to Grounds of Appeal**

No response submitted.

## **8.0 Development Plan Policy and Guidance**

In the Loughrea LAP 2012-2018 the site is zoned C1 i.e. Town Centre/Commercial.

It is also within an Architectural Conservation Area and a Zone of Archaeological Potential.

Under Reg. 1276 in the Galway County Development Plan it is designated as a Protected Structure being described as a 3 bay 3 storey house, early 19<sup>th</sup> century.

## **8.0 Assessment**

The main issues arising are considered to be as follows:

- Principle of Development
- Impact on Residential Amenities

- Impact on Protected Structure and ACA
- Other Issues

## **8.1 Principle of Development**

8.1.1 The appeal site is located on lands that are zoned Objective C1 (Town Centre/Commercial). Under this land use zoning objective a bar is 'permitted in principle'. It is also noted that there is an existing bar on the site and that, from the information provided on file, the use of the site as a bar has been ongoing for over 70 years. The principle of the use of the site as a bar is therefore well established and the principle of extension or intensification of the use of the premises for this purpose is therefore considered to be acceptable.

## **8.2 Impact on Residential Amenities**

8.2.1 With regard to the impact of the works on the residential amenity of surrounding properties it is noted that the adjoining property to the east (above the bakery) has residential accommodation at the upper levels. It would also appear from an inspection of the street and the adjacent buildings that there are other residential uses at upper floors in relatively close proximity to the appeal site. It is not possible however to exactly determine the extent of such use in close proximity to the appeal site.

8.2.2 The first party appellants make the case that the appeal site is located within a town centre and that the proposed bar use is long established. It is submitted that the opening hours are standard and that there is no basis on which the use of the first floor should be seen to be incompatible with surrounding uses. With regard to the principle of the use of the first floor, I would generally agree with the case made by the first party. The hours of operation proposed are not excessive and are restricted by the licence that the first party has for the premises. With regard to noise, I also note the fact that the first party state that the first floor bar is essentially used for meetings and private functions and the music is not played in this location. Notwithstanding this, I would retain some concerns that the extension of the bar use to the first floor introduces new impacts on adjoining properties which were historically not the case in this mixed use town centre location. I am also conscious of the fact that while the first party references the fact that the walls have been sound proofed as part of the works to the first floor, no details of these works have been submitted and no noise assessment of the potential noise transfer to adjoining properties has been undertaken. The increased capacity arising from the change of use of the first floor also has potentially adverse implications for the amenity of adjoining properties in terms of the numbers of patrons likely to be using the outside smoking / beer garden areas. In the event that permission for the retention of the use of this area as a bar was being

considered I recommend that a condition restricting live music or other forms of amplified music in this area would be attached.

- 8.2.3 In my opinion, of potentially greater concern in terms of noise generation in my opinion is the access from the first floor to the beer garden area and the beer garden itself. The first floor accesses at the rear of the building onto a podium from which there are stairs to the beer garden at ground floor level. This podium is a location where patrons could congregate and the noise generated be a source of nuisance to occupants of surrounding properties.
- 8.2.4 With regard to the beer garden itself, since the determination of the previous application in April, 2014, the first party state that they have reduced the size of the beer garden and that the previous outdoor serving area is no longer operational. The omission of the outdoor serving area is to be welcomed and would likely act to somewhat reduce the intensity of use of the outdoor area. With regard to the size of the area, the extent of outdoor space available to patrons of the bar would not, as far as I can see, be reduced on foot of the revised proposals. What is proposed is that the extent of covered area would be reduced and on inspection of the site no covering was in place to the eastern side of the beer garden area although the supports for the roofing remained in position. The remaining covered area is that which is indicated in the drawings attached with the appeal as containing a pool table. It is stated in the appeal that the pool table would be removed and that seating provided in its place. At the time of inspection of the site the pool table had been removed. While the revised proposals reduce the extent of covered space provided I am not convinced that the alterations will have the effect of significantly reducing the intensity of use and hence noise generated by the outdoor area. As noted by the first party, the outdoor area is use for a relatively limited period of the year and during these times the fact that the area is not covered would not, in my opinion, be likely to limit the use of this area by patrons.
- 8.2.5 Overall, while I note the long established bar use on the site and the town centre location, as well as the changes made to the outdoor areas since the last application for retention, I consider that regard has to be had to the impact on the amenity of surrounding properties that arises and to the fact that this was an established mixed use area based on a much smaller scale bar use. On balance, on the basis of the issues set out above, I consider that the reason for refusal No.1 cited by the Planning Authority in the Notification of Decision which issued is valid and should be upheld.

### **8.3 Impact on Protected Structure and ACA**

- 8.3.1 The second reason for refusal cited by the Planning Authority relates to the impact of the development undertaken and for which retention is sought on the character and setting of the protected structure on site. The reason for refusal cited by the Planning authority also mirrors that issued by the Board in the previous refusal of retention (Ref.



PL07.242711). The first party contends that the basis for this refusal no longer exists as the current application is accompanied by a report from a Conservation Buildings Consultant who makes reference to the works undertaken and concludes that the extent of structural changes undertaken are relatively minor and that they do not adversely affect the character or setting of the structure. At the outset I also note the fact that the application as advertised is for the change of use of the first floor and that there is no reference in the application or detail provided regarding the structural changes undertaken given its protected status.

- 8.3.2 With regard to the report submitted with the application and to the comments of the conservation consultant submitted as part of the appeal, I would note a number of issues. Firstly, the information submitted still does not document the exact nature of the works that were undertaken and no photographic record of the previous condition of the property is provided. Due to these omissions it is very difficult to get a clear impression of what impact the works undertaken have had and to clearly ascertain that they have not had a significant adverse impact on the character of the building. The report of the conservation consultant (Ms Anne Carey) highlights the fact that as part of the works at first floor level two internal doors were removed and a staircase removed. While the renovations undertaken to the first floor are acknowledged as being significant it is stated that the impact on original fabric was limited and that a lot of the works undertaken are reversible. It is acknowledged that the works undertaken were not very sympathetic in terms of the integration of old and new but contended that while they do not add to character they do not have a negative effect either.
- 8.3.4 A conservation report prepared in 2006 and submitted with a previous application is referenced in the appeal submissions and this document is that prepared by John Yates and Associates and submitted as part of Ref. 06/4781 (PL07.221567). This report does provide a written inventory of features however there is no photographic record which accompanies it.
- 8.3.5 From an inspection of the site it is evident that the extent of works undertaken to the building in recent years have been significant. The first floor has been extensively refurbished including dry lining of walls and the installation of a new ceiling which has ventilation incorporated. New toilets have been constructed and it would appear that the construction of these toilets resulted in the removal of a staircase which was previously in this location. The originality of this staircase is not clear however it cannot be demonstrated that it was not original and the replacement is modern and not in keeping with a structure of this age. Similarly, it cannot be demonstrated that there was not original fabric lost in the works undertaken to the ceiling at first floor level. The replacement staircase provided is a modern timber structure and is not in keeping with the character of the building. The removal of internal doors is noted by the Conservation report and I note that a number of openings have been modified or closed including the closure of a window ope which is behind the bar area and the extension of a window ope to create a doorway. None of these works are particularly

significant individually, however they do result in an overall loss of character. In addition, the works have resulted in the loss of floorboards at first floor level and it is stated in the Conservation report that an original fireplace at first floor level has been covered in the renovation works. Given the lack of photographs and other records of works undertaken this cannot be verified.

- 8.3.6 At second floor level the condition of the building is poor with evidence of significant unsympathetic works done to the structure. The roof has been replaced and it is not clear from the information presented what if any materials in the roof structure could or have been reused. From an internal inspection to roof construction and materials are not particularly sympathetic to the original structure. In terms of the use proposed for the second floor I do not have a significant objection, however the application is very limited in terms of the level of detail provided regarding the future works which are to be undertaken to the structure at this level having regard to the protected structure status of the building. Given the issues outstanding with regard to the retention of the works at ground and first floor level it is not considered appropriate that permission would be granted for the proposed change of use at second floor level.
- 8.3.7 The comments of the Planning Authority and the first party with regard to the new uPVC windows inserted in the front elevation are noted and I agree that these are not appropriate to the structure and have a detrimental impact on the Architectural Conservation Area in which the site is located. The proposals from the first party to provide replacement sliding sash timber windows submitted as part of the response to further information area noted and in the event of a grant of permission in this case it is recommended that it be required by condition that the existing windows would be replaced.
- 8.3.8 Overall therefore, while the extent of interventions in the building are not particularly significant in terms of significant structural changes, I remain concerned regarding the level of works undertaken and the continued uncertainty with regard to the amount of original fabric that has been lost arising from the works for which retention is now sought. For this reason it is my opinion that on balance Reason for Refusal No.2 as included by the Planning Authority in the Notification of Decision should remain.

## **8.4 Other Issues**

- 8.4.1 No screening for appropriate assessment was submitted by the applicant or undertaken by the Planning Authority. Having regard to the nature and scale of the development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

Having regard to the above it is recommended that permission for the retention of the outdoor smoking area, rear external escape stairs and balcony and change of use of the first floor to meeting / function room and permission for the change of use of the second floor to ancillary storage and staff facilities be refused based on the following reasons and considerations:

### **REASONS AND CONSIDERATIONS**

1. It is considered that the cumulative impact of the individual components of the development proposed for retention including a beer garden that is considered to be excessive in scale relative to the floor area of the original public house would represent an unacceptable intensification of use on this restricted site and would, by reason of noise and general disturbance, seriously injure the amenities of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. In the absence of satisfactory evidence of the impact of the development proposed for retention on the protected structure (RPS: 1276) on site, it is considered that the development proposed for retention would have a material and adverse impact on the character and setting of this important historic building. The development proposed for retention would result in an undesirable form of development at this town centre location and would be contrary to the proper planning and sustainable development of the area.

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**Stephen Kay**  
Inspectorate  
5<sup>th</sup> February, 2016