



An
Bord
Pleanála

Inspector's Report PL61. 246912

Development	Change of use of existing retail unit to sit down restaurant with signage and associated site works.
Location	Lower Fairhill Road, Galway City
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	15/173
Applicant(s)	Grey Street Foods Limited
Type of Application	Third v grant
Planning Authority Decision	Grant permission
Appellant(s)	Patrick Nolan
Observer(s)	None
Date of Site Inspection	24 rd September 2016
Inspector	Karla Mc Bride

1.0 Site Location and Description

The appeal site is located at Fairhill Road on the W side of Galway City and the surrounding area is characterised by a mix of residential, retail, restaurant and entertainment uses. The appeal premises occupies a small ground floor unit within an existing 4-storey building which has ground floor commercial and upper floor residential uses. There is a public house (Monroe's Tavern) located to the N on the corner with Dominick Street Upper with a restaurant to the S on the corner with Burkes Lane. The site is bound to the rear W by a 4-storey apartment building at Bridgewater Court with ground level car parking with vehicular and pedestrian access off Burkes Lane. The appeal premises is currently occupied by a bicycle hire shop and the entrance to the apartments is located beside this unit.

The attached maps and photographs describe the site in some detail.

2.0 Proposed Development

Planning permission is being sought to change the use of ground floor retail unit to restaurant (c.48sq.m) and provide new signage with associated site works.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of FI in relation to: - operational details, waste disposal, servicing, ventilation, fire escape and refuse access arrangements, and legal consent to carry out the development; and the receipt of unsolicited FI in relation to the use of the kitchen for preparation of sandwiches and reheating food (so as to avoid the need for an extraction and/or fire suppression systems), the PA decided to grant planning permission subject to 14 standard conditions.

- Condition no.2 prohibited the cooking of foods on the premises and permitted the preparation of sandwiches and food to be reheated along with beverages.
- Condition no.8 restricted the use to a sit down restaurant with no take away element permitted.
- Condition no.10 required details of sound insulation to prevent noise nuisance at neighbouring residential properties.

This decision reflects the report and recommendation of the City Planning Officer.

3.2. Other Technical Reports

No objections from the Councils' Roads, Drainage and Water sections subject to compliance with standard conditions.

The HSE has no objections subject to the layout of the kitchen been agreed.

The Chief Fire Officer has no objections subject to a FSC.

3.3. Third Party Observations

Four submissions received from the residents of Bridgewater Court apartment scheme and the Downtown Property Management Company who raised concerns in relation to noise, disturbance, ventilation fire escape, refuse storage, and inaccuracies in the planning application form.

4.0 Planning History

Reg. Ref. 92/475: permission granted for the erection of a 4-storey mixed use development on the appeal site comprising ground floor retail with apartments over.

Reg. Ref. 13/179: permission granted on adjoining premises form a change of use of a neighbouring premises from retail units to restaurant.

5.0 Development Plan

Zoning objective: The site is located in an area covered by the “CC” objective in the by the Galway City Development Plan 2011-2017 which seeks “To provide for City Centre activities and particularly those which preserve the city centre as the dominant commercial area of the city”. Restaurants are acceptable within this zone.

Policy 11.4.5 (Uses) states that where development for and/or extensions to licensed premises including off-licences, night-clubs and takeaways are being considered in the City Centre Area, the Council will take into account the following:

- effect of the proposed development on the amenities of the area,
- effect of the proposed development on the mix of uses in the area,
- size, number and location of existing licensed premises in the area.

Policy 11.5 (Shopfronts) states that any proposal for shopfront design should take account of the heritage of Galway where feasible.

- Contemporary shopfronts will be considered when:
 - materials & proportions are appropriate to the area,
 - the design complements the design of the upper floors of the building,
 - the shopfront does not extend into the floor above,
 - existing elevations are not straddled.
- Generally, the use of external roller shutters/security screens shall not be permitted but if required, they should be placed behind the shop front display.

Car parking (Restaurant & retail): 1 space per 30sq.m gross floor area

6.0 Natural Heritage Designations

The appeal site is not located within a European site however the Inner Galway Bay SPA and Galway Bay Complex SAC & pNHA are located nearby.

7.0 The Appeal

7.1. Grounds of Appeal

- Ventilation equipment would have an adverse impact on the residential amenities of the neighbouring apartments.
- Fire hazard with no fire escape to the rear to the premises.
- The fire escape route from Bridgewater Court to Burkes Lane has been blocked by unauthorised works (walls, bin storage, barriers & smoking areas).
- Traffic generation and hazard and the loading bays are at full capacity.

7.2. First Party Response

No response received.

7.3. Planning Authority Response:

- The main concern is that the proposed restaurant use will exacerbate concerns in relation to means of escape, refuse collection and storage with the adjoining Bridgewater Court apartment development.
- Most of these concerns were addressed by the FI submission when the applicant provided information in relation to legal title and rights of way however outstanding concerns of this nature are not within the remit of ABP.
- The proposal, as amended by way of FI to serve only sandwiches and reheated food, will no longer need to link with the ventilation system.
- Proposal is compatible with the “CC” zoning objective with no adverse impacts on vitality or viability of the area.
- Fire safety concerns are a matter for separate codes and the Chief Fire Officer was satisfied with the proposal.

7.4. Observations & Prescribed Bodies

No submissions received.

8.0 **Assessment**

8.1. **Identification of key issues**

I consider the key issues in determining this appeal are as follows:

- Principle of development
- Residential amenity
- Other issues

8.2. **Principle of development**

The proposed development would be located within a City Centre area covered by “CC” zoning the Galway City Development Plan 2011-2017 which seeks to “provide for City Centre activities and particularly those which preserve the city centre as the dominant commercial area of the city”. The proposed change of use from retail to restaurant use would be acceptable in principle subject to the proposal not giving rise to any adverse effects on the amenities or mixed use character of the area. There are several shops, restaurants and public houses in the vicinity, however having regard to the small scale of the proposed development I am satisfied that it would not have an adverse impact on the amenities, vitality and viability of this section of the city centre.

8.3. **Residential amenity**

The proposed development would occupy a ground floor retail unit in a 4-storey mixed use building where the upper floors of the appeal premises and the neighbouring building to the rear/N are in residential use. The lands to the rear of the appeal premises also form part of a shared access route with neighbouring residential and commercial properties.

Under the original application to the planning authority the c.48sq.m. unit would have comprised a kitchen area (c.30sq.m) and small seated dining area (c.18sq.m.). Concerns were raised in relation to the ventilation arrangements and fire prevention measures required for the cooking of food on the premises, and means of escape in the event of a fire. The applicant decided to restrict the use of the premises to the

preparation of sandwiches and beverages and the reheating of already prepared food. This amendment was confirmed in the Further Information and unsolicited Further Information submissions and further affirmed by way of Condition no.2 of the planning authority's decision to grant planning permission. Condition no.8 also restricted the use of the premises to a sit down restaurant with no take-away element permitted, and Condition no.10 required details of sound insulation to prevent noise nuisance at neighbouring residential properties.

This approach is considered to be reasonable in terms of negating the need for substantial ventilation equipment, reducing the risk of fire and protecting the amenities of neighbouring residential properties. I am satisfied that the change of use from retail to a restaurant is acceptable. However, given that the proposed development would replace an existing retail unit with a sandwich bar within a city centre zone, I would consider it unreasonable to prohibit the take-away element, particularly as no food would be cooked on the premises, although, the operational hours should be controlled in the interest of amenity.

8.4. **Other issues**

Appropriate assessment: The proposed development would be located in close proximity to the Inner Galway Bay SPA and Galway Bay Complex SAC. However, the proposed restaurant would also be located within an existing building which is connected to public services and infrastructure and it would have no direct aquatic connection to these European sites. Screening for AA is therefore not required.

Car parking & servicing: The Development Plan requires the same level of car parking (1 space per 30sq.m gross floor area), bicycle parking (1 space per 20 car spaces) and servicing for the existing retail and the proposed restaurant unit, and the proposed development would not give rise to any additional traffic hazard or endanger the safety of other road users.

Environmental services: The proposed development, as amended by way of the FI and unsolicited FI submissions are considered acceptable subject to compliance with the requirements of Irish Water and the planning authority.

Fire safety: The concerns raised by the Appellant in relation to fire safety at the neighbouring residential and commercial properties and adjacent car park are noted however most these concerns are outside the Board's remit. The proposed development, as amended by way of the FI and unsolicited FI submissions, is considered acceptable subject to compliance with the requirements of the Council's Chief Fire Officer.

Legal interest & rights of way: The further information submitted by the applicant to the planning authority is noted, however any of the outstanding concerns raised by the Appellant in relation to these matters are outside the Board's remit.

Visual amenity: The proposed development would be located within an existing building and it is not proposed to alter the front elevation to any significant extent. Details of the proposed signage should be submitted to the planning authority for their written agreement before development commences, and no additional signs or security shutters should be erected without a prior grant of planning permission.

9.0 Recommendation

- 9.1. I recommend that planning permission should be granted for the reasons and considerations as set out below and subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the provisions of the Galway City Development Plan 2011-2017, and to the nature and scale of the proposed development and to the pattern of development in the area, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further information submissions received by the planning authority on 22nd day of December 2015 and the 22nd day of January 2016, 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.

Reason: In the interest of clarity.

2. For the avoidance of doubt, the restaurant shall operate strictly in accordance with the submission received by the planning authority on the 22nd day of January 2016. In this regard, food shall not be cooked on the premises and only the preparation of sandwiches, beverages and food that requires reheating shall be served. There shall be no departure from this arrangement unless authorised by a further grant of planning permission.

Reason: In the interest of orderly development and to protect the residential amenities of the area.

3. The opening hours of the premises shall be restricted to between 0800hours and 2200 Monday to Sunday, inclusive of public holidays.

Reason: In the interest of orderly development and to protect the residential amenities of the area.

4. Details of the proposed signage shall be submitted for the written agreement of the planning authority before development commences, and no further advertisement signs (including any signs installed to be visible through the windows), security shutters, advertisement structures, banners, canopies, flags, other projecting elements or shall be displayed or erected on the buildings, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area

5. Details of the proposed insulation measures to prevent noise nuisance for the occupiers of the neighbouring dwellings shall be submitted for the written agreement of the planning authority before development commences.

Reason: In the interest of orderly development and to protect the residential amenities of the area

6. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

Reason: In the interest of public health.

7. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00hours and 14.00 hours on Saturdays and not at all on Sundays or Public Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

Karla Mc Bride
Senior Planning Inspector
17th October 2016