



An
Bord
Pleanála

Inspector's Report ABP 300878-18.

Development	Pop up restaurant and take-away with connection to services in adjoining building. (for a three-year period)
Location	19 Forster Street. Galway.
Planning Authority	Galway City Council.
P. A. Reg. Ref.	17/318
Applicant	Darragh Mullin
Type of Application	Permission.
Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Darragh Mullin
Date of Site Inspection	24 th May, 2018.
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. According to the planning officer's report the site is that of a former three storey building which was demolished in 2012 because it was at risk of collapse. At present it is vacant and hoarding is located along the street frontage. It has a stated area of 158 square metres, the width at the frontage being 6.6 metres and the depth 34.9 metres. There is a three storey building of relatively recent construction to the east side in which a commercial/retail unit is at ground floor level and a similar building of relatively recent construction in commercial use is to the west side.
- 1.2. Forster Street which is located to the east of Eyre Square and Frenchville Lane, where the rail and bus termini are located is characterised by a mix of recently constructed development and historic buildings. Tourist accommodation, especially commercial hostels and associated tourism infrastructure services such as ticket offices are also clustered in the area. There are some offices, places of worship, shops, bars and cafes and restaurants including a pop up café a short distance to the east at another vacant site.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for permission for a three-year period for development of a pop up restaurant with take away facilities on the site. The total stated floor area of the proposed restaurant is 44 square metres providing for indoor seating with windows overlooking a courtyard in which there will also be outdoor seating areas. The structure to be located on the site is an amalgamation of shipping containers which have a three metre height, depth of 17.7 metres and width increasing from 2.4 metres at the site frontage to 4.9 metres at the rear. The kitchen and toilet facilities within the containers are to be connected to services in the adjoining building for which written consent of the adjoining property owner has been provided.

3.0 Planning Authority Decision

Decision

- 3.1. By order dated, 11th January, 2018, the planning authority decided to refuse permission for the proposed development for two reasons:
- 3.2. The first reason is that of injury to visual amenity and contravention of the development plan policy for strong urban design in the central city's urban core for which high quality design is required to protect and enhance the character of the city centre.
- 3.3. The second reason is that of contravention of the development plan due to a perpetuation of the under-utilisation of the site and continuation of the three storey gap site with temporary single storey development.

3.4. Planning Authority Reports

Planning Reports

- 3.4.1. The planning officer in his report states that the site has been vacant for over five years and that the proposed development is unwarranted due to the existing availability of restaurants cafes and bars in the area and poor-quality design. (A photograph of the façade of the former three storey building is attached to the planning officer report.)

Other Technical Reports

- 3.4.2. The report of Irish Water indicates that insufficient details have been provided for the proposed service connections in the application drawings.

The report of the Environment Section indicates acceptance of the proposed development about waste management, subject to conditions.

4.0 Planning History

- 4.1. There is no record of planning history available for the appeal site.

5.0 Policy Context

Development Plan

- 5.1. The operative development plan is the Galway City 2016-2022 according to which the site location is subject to the zoning objective CC: *“To provide for city centre activities and particularly those preserving the city centre as the dominant commercial area of the city.”*
- 5.2. Policy 10.2 provides for protection and enhancement of the character of the city centre with high quality design having regard to the compact mediaeval core from which a strong urban design context is derived. Policy 8.1 provides for a requirement sensitive good urban design and architecture where opportunities for regeneration in the city centre. Policy 5.3 provides for encouragement of growth in artisan and speciality foods in the city.

6.0 The Appeal

Grounds of Appeal

- 6.1. An appeal was received from Planning Consultancy Services on behalf of the applicant on 7th February, 2018.
- 6.2. With regard to Reason 1 it is submitted that:
- The proposal conflicts with Section 10.2 of the development plan. Forster Street has no mediaeval legacy and the development does not interfere with the characteristics of Eyre Square to the west. It is an appropriate intervention on a brownfield site reducing the vacancy on a temporary basis.
 - There can be preconceptions about shipping containers as an urban concept. There is a successful example in London’s South Bank. The structure can be accepted for a temporary period on the basis of the principle of use of prefabricated elements, with right urban design and distinctive architecture in modular structures which is discussed in an IOP Conference paper. An extract is included in the submission.

- Permission was granted by Dublin City Council for three years for a comparable development of a temporary café and retail unit on derelict land in single storey height shipping containers on Thomas Street resulting in removal of a section of hoardings. The location is a larger urban site which is to be redeveloped in the future. (P A. Reg. Ref. 4085/16 refers.)
- The proposed development does not adversely affect visual amenities. An alternative design solution is included for consideration in the appeal which can be considered if the original proposal is not accepted. Signage and external finishes can be agreed by condition.
- The proposed development is compatible with the zoning objective, policies in sections 11.2 for temporary use and 10.2 encouraging diversity of use relating to tourism and expansion of the café culture. The proposed development would not cause proliferation of restaurant use in the area. Forster Street is not a principle shopping street, no seated restaurant is on the northern edge of the street.

6.3. With regard to Reason 2 it is submitted that:

- There is no explanation by the planning authority for the claim that the proposed development is in material contravention of the development plan.
- The contention as to perpetuation of underutilisation of the site is completely unfounded. The site is part of a wider urban quarter earmarked for large scale redevelopment as an “Opportunity Site” (“Eyre Square East Area”) as is provided for in section 10.3. and Figure 10.4 of the development plan and, there is a requirement for a Masterplan to be prepared for a new urban quarter. It is clearly unlikely that the area could be developed within the three-year period proposed. The joint owners of the Eyre Square East Area” provided the applicant with written consent to the application. This demonstrates that there is no potential interference with their long-term future plans. Refusal of permission for the proposed development would not hasten the redevelopment and a vacant site levy would not incentivise development as the application site is a small area within a wider redevelopment quarter.
- The planning authority is concerned about the visual impact and the single storey nature of the structure. The site is not within the ACA the boundary of

which is forty metres to the south west and there is no built heritage importance in the vicinity.

- The Jungle Café (thirty-five metres to the east) has benefit of a retention permission and no concerns as to visual impact were raised by the planning authority. (P A. Reg. RFef.13.253 refers.)
- The proposed development could be considered on a similar basis to a proposal for a temporary carpark on the Headford Road. A decision of the planning authority to refuse permission for the development was overturned following appeal on grounds that it was not seriously injurious to amenities and would not compromise longer term objectives for the area. The site location was within area for which there was an objective for preparation of a Local Area Plan on grounds of undesirable precedent for similar use of underused and vacant sites (P.A. Reg. Ref. 12/321/ PL 61 242577 refers.)

6.4. Planning Authority Response

- 6.4.1. A submission was received from the planning authority on 14th March, 2018. It contains an outline of the application planning policy context and the appeal. It is also acknowledged that a pre-planning consultation took place at which the applicant was advised that the proposed development would be open to consideration.

According to the submission:

- The site has been vacant for over five years and is located close to the Eyre Square Architectural Conservation Area. The Jungle Café, referred to in the appeal is not a precedent development. There had been an established café use at the site for several years and it is located within a former ticket office.
- The view that the proposed development would perpetuate the underutilisation of the site is reiterated.
- There are no details of the architectural designed elevations proposed or materials or a side elevation within the revised elevation details included with the appeal. The revised elevations might improve the appearance but would not overcome the concern as to “*unacceptable visual impact on the street*”

scene, contrary to the policies of the Galway City Council Development Plan, 2017-2023.”

7.0 Assessment

7.1. The issues considered central to the determination of a decision which are discussed below are:

Material contravention of the development plan.

Under-utilisation impeding redevelopment of an opportunity site,

Proliferation of café/restaurant use.

Visual amenity

Precedent

Material contravention of the development plan.

7.2. Various extracts of development policy objectives, mainly of a strategic are referred to in the planning officer report, reasoning attached to the decision to refuse permission and the response to the appeal the planning authority. However, the information and comments supporting the decision to refuse permission are somewhat general. As a result, a clear and substantive understanding as to how specifically, the proposed development is in contravention of the development plan is not feasible.

Under-utilisation impeding redevelopment of an opportunity site.

7.3. The application site is a vacant brownfield site in the centre of the city the desirability of the viable redevelopment of which is unquestionable and this is endorsed by the identification and designation of the overall “East Eyre Square Area” as an Opportunity Site in the *Galway City Council Development Plan, 2017-2023*. (Section 10.3 and Figure 10.4. refers.) It is not apparent that there is a persuasive argument, having regard to the information and views indicated in the submission of the planning to support the claim that the proposed temporary café/restaurant use of the application site would impede the redevelopment of overall Opportunity Site area in which the site is located and for which a Masterplan is to be prepared. While the observation that the site has been vacant for over five years is acknowledged a

temporary grant of permission, based on the information available for consideration, would not, obstruct measures to encouragement redevelopment as provided for in the development plan objectives. The proposed three-year duration appears appropriate but a restriction to a two-year period would also be reasonable.

Proliferation of café/restaurant use.

- 7.4. The Forster Street area is characterised by tourism infrastructure in that several commercial hostels and hotels are clustered in the area along with ticket offices and some bars and cafes. It is not accepted that there is an over concentration of cafes restaurants and take away businesses between the central and eastern end of Forster Street, in close to the site of the proposed development. It is not accepted that the proposed development would contribute to a proliferation of restaurants and cafes in the immediate environs of the site location. There is a high concentration of restaurants, cafes and bars in Eyre Square and to the north and west.
- 7.5. Bearing the foregoing in mind, there is no objection to the proposed café use, and it is of note that cafes are an accepted land use within areas subject to the CC (City Centre) zoning objective according to the development plan. The proposed development, a pop up restaurant and takeaway which is not impeding the delivery of achievement of the objective for the overall opportunity site would positively contribute to the amenities of the area, relative to the derelict site.

Visual amenity

- 7.6. Given the existing context whereby the development is proposed as a temporary use for a derelict site, pending the implementation of strategic policy for future overall development of the East Eyre Square Opportunity Site from the perspective of the interests of amenity and visual amenity, the proposed development is an enhancement and infills a gap site in the streetscape with a structure and use of interest which also appears to be viable and to introduce live street frontage. Flexibility in application of design standards with regard to visual amenity and integrity of the streetscape is appropriate to a temporary pop up development of a gap site in the streetscape would be reasonable but it is acknowledged that the selection of and presentation of ship containers is subjective. Nevertheless, the applicant, subject to use of reasonable quality materials and finishes and relatively subdued colours for the containers, can achieve delivery of a temporary insertion of

interest in the streetscape which is not overly intrusive in the case of the alternative design proposal included in the appeal for the pop up café. A requirement for compliance submission with regard to details to include materials finishes and colours, can provide for assurance and clarity in this regard

Precedent.

- 7.7. It is fully agreed, based on the information provided in the response to the appeal by the planning authority that contrary to the assertions in the appeal, precedent cannot be taken from the authorised pop up café (The Jungle) at a vacant site a short distance to the east of the application site. The site had the benefit of a pre-existing former and, presumably unabandoned café/restaurant use. It is reasonable that there might be a concern as to potential for precedent proposed development would not set undesirable precedent for similar pop up development or for a proliferation of such development. However, it is not apparent that there is significant potential for concern in relation to the current proposal as to scenarios for which precedent could be taken for comparable development.

Appropriate Assessment

- 7.7.1. Having regard to the location of the proposed development which entails construction of a modest sized dwelling within an established residential area, it is considered that no appropriate assessment issues arise. 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.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision overturned and permission be granted on the basis of the reasons and considerations and subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to strategic objectives for the redevelopment of the East Eyre Square Opportunity Site within which the existing vacant, gap site on Forster Street in the city centre is located and, to the zoning objective for the area in which restaurant and

cafe use is acceptable in principle according to the Galway City Development Plan, 2017-2023; to extent and range of existing services and facilities within the area and, to the limited duration of the proposed pop up restaurant and take away development, it is considered that, subject to the conditions attached below, the proposed development of a pop up restaurant and takeaway would not undermine or conflict with the strategic development objectives for the opportunity site within which the site is located or the zoning objective provided for in the said development plan and would be in accordance with the proper planning and sustainable development of the area

1. The development shall be carried out and completed in accordance with the plans and lodged with the application as amended by the plans and particulars submitted to an Bord Pleanála on 7th February, 2017 except as may otherwise be required 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.

Reason: In the interest of clarity

2. This grant of permission shall apply for a period of three years from the date of this order prior to which the use shall cease and the structures shall be removed unless a further, grant of permission for a further period has been obtained.

Reason. In the interest of clarity and to allow for further planning review.

- 3.. Prior to the commencement of the development the applicant shall submit and agree in writing full details of the proposed materials finishes, colours, which shall be in a mute shade, fenestration and signage which shall be in painted or fixed individual lettering and externally only for the shop containers with the planning authority.

Reason: In the interest of the visual amenities of the area.

4. The takeaway facility shall be ancillary to the main restaurant use and shall not be subdivided or operated as a separate entity.

Reason: In the interest of clarity, and orderly development.

5. Water supply and drainage arrangements, including the [attenuation and] disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in 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 in respect of the retail unit only and 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

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.

Jane Dennehy
Senior Planning Inspector.
28th May, 2018