



An
Bord
Pleanála

Inspector's Report ABP-300949-18

Development	Permission for change of use of ground floor and mezzanine floor from Retail to Restaurant with seating including signage / frontage
Location	Unit 12 Centrepoint, Liosban Industrial Estate, Tuam Road Galway
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	17/320
Applicant(s)	Acrisium Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Acrisium Ltd.
Observer(s)	Cathal Keogh Aonghus & Philippa McGuinness Noel Elwood
Date of Site Inspection	11/05/18
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located on the ground and mezzanine floor of 6 storey block in the Liosban Business Park, on the Tuam Road in north-eastern Galway city. The Park is made up a series of differing blocks with a range of business and retail uses.
- 1.2. The subject site, which is currently occupied by an Elverys Sports store, comprises the ground and mezzanine floor.

2.0 Proposed Development

- 2.1.1. Permission was sought for a change of use of the ground floor mezzanine (429sq.m.) from retail to restaurant with seating, including signage.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 23/01/2018 the Planning Authority issued a notification of intention to REFUSE permission for the following reason:

- 1 The proposed change of use from retail to use as a restaurant, located within a C1 zoned Industrial Estate where the Galway City Council Development Plan 2017-2023, section 11.2.6 which requires that “retail of a type and of a scale appropriate to the function and character of the area” and “service retail” would be uses which may contribute to the zoning objective of the area subject to size, scale and appropriateness of such development and where there is a specific development plan stating “...local retailing needs will be the only retail types considered on C1 zoned lands not provided for in the retail hierarchy at / adjoining...Tuam Road”. In this case the scale of the restaurant proposed is excessive and would not be considered to service local needs, it would be contrary to the development plan and if permitted would unduly interfere, undermine and be injurious to the function and character of the area and contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. **Environment** Section: 5 no. conditions recommended for waste management.
- 3.2.2. **Planning** Report: The existing sports shop was considered to be in keeping with the original planning permission (99/700) as it sold bulky goods. A small scale restaurant

/ café would be open for consideration, to cater for the needs of workers in the Industrial Estate. No internal layout of the proposed 429sq.m. restaurant has been submitted, nor have opening times, type of restaurant or waste management details. No details of proposed signage submitted. Refusal recommended.

3.3. Third Party Observations

- 3.3.1. A number of objections to the proposed development were submitted to the Planning Authority. The grounds of objection relate to the unsuitability of the Industrial Estate for a restaurant of that size, the variety food options available in the area and traffic congestion in the area.

4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **99/700**: Planning permission granted for a mixed retail, office and residential development consisting of ground floor retail units - max. no. 25 whose uses are to include a launderette, convenience store, restaurant/student seminar room: an alternative option of office space at ground floor with ground floor retail units whose uses are to include launderette, convenience store and restaurant/student seminar room; first floor offices; 43 no. residential units whose uses are to include student and tourist accommodation, 99 no. car parking spaces, 133 basement car parking spaces, 104 bicycle parking spaces.

5.0 Policy Context

5.1. Galway City Council Development Plan 2017-2023

- 5.1.1. The subject site is Zoned CI which has the stated objective “to provide for enterprise, light industry and commercial uses other than those reserved to the CC zone”. Café / restaurant use are not listed in section 11.2.6 as uses that are compatible with or contribute to the zoning objective.
- 5.1.2. Section 11.2.6 of the plan provides a specific development objective for CI zoned lands, of which the following is relevant to the subject application: “Bulky goods retailing and local retailing needs, will be the only retail types considered on CI zoned lands not provided for in the Retail Hierarchy at/adjoining;....., Tuam Road.”

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal against the decision of the Planning Authority to refuse permission has been submitted to the Board by an agent for the First Party. In response to the decision of the Planning Authority, the applicant has revised the proposed development to be on ground floor with the mezzanine level for storage and ancillary use. Reduction in floor area from 429sq.m. to 243sq.m. (a 44% decrease in floorspace).

6.1.2. The grounds of the appeal can be summarised as follows:

- The proposed use will primarily serve the needs of customers and employees of the Liosban Industrial Park.
- The proposed use is not a retail development. The service retail function is in accordance with the zoning objectives for C1 commercial as café / restaurant is 'service retailing'.
- The proposed restaurant / coffee shop is more comparable to the wider Liosban employment area than the former retail use. The proposed change of use will support the retail hierarchy of the city.
- The Planning Authority acknowledged that the restaurant would fit with the original planning permission 99/700. There is a clear precedent for café and restaurants in the wider area.
- The development plan does not place any site specific restrictions on maximum floor space for uses that are 'open for consideration' in C1 zones or in the Business Park. The development plan notes that the park is very important for small start-up businesses.
- The Tuam road area predominantly accommodates light industry, small manufacturing and service units, offices, warehousing and bulky goods. This established commercial area is likely to expand.
- The applicant has amended the proposed development to comprise restaurant / coffee shop use on the ground floor (243sq.m.) only with the mezzanine (185sq.m.) to be used as storage only. Opening hours will be 7am to 6pm and will be to serve residents, workers and visitors to the Liosban Business Park.

- The existing method of waste management will continue.
- The Planning Authority's planning report supports a small-scale coffee shop / restaurant use. The revised proposal complies with this and aligns with the other such units in the area – unit 5 (240sq.m.), unit 14 (196sq.m.) and unit 11B (261sq.m.).
- The proposed non-retail use will complement the wider primary employment function of the wider area.
- The amended proposal requires 16.2 car parking spaces in accordance with development plan requirements.
- In response to the observations submitted to the Planning Authority, the applicant states that all matters have been addressed in the appeal. The applicant notes that no objections were received from interdepartmental or external consultations.
- In conclusion, the Board is requested to grant permission for the proposed development.
- The appeal is accompanied by drawings of the proposed amendments to the floorspace.

6.2. Planning Authority Response

- 6.2.1. None on file.

6.3. Observations

6.3.1. MJ DESIGNS on behalf of Aonghus & Phillipa McGuinness and Cathal Keogh

The observations made by MJ Designs on behalf of both third parties are the same. The issues raised can be summarised as follows:

- The applicants company directors own and operate the franchise for Starbucks, TGI Friday and Mao. It is the observers concern that the proposed restaurant will comprise such a destination restaurant and therefore will not serve local needs and will be out of character with the area.
- The amended floor plan could accommodate 65/68 persons yet shows no toilets, refuse area, staff facilities, food facilities or kitchen prep area. It is submitted that the proposed storage mezzanine will be used as the restaurant as it is labelled

'back of house storage'. The amended ground floor is larger than other cafes / restaurants in the estate.

- There are 7 no. restaurants / cafes in the Liosban Industrial Park, 4 no. in the Liosban Estate, 4no. at the Headford Road entrance and 4 no. at the Tuam Road entrance. Map and photos submitted.
- The parent permission 99/700 made provision for one restaurant in the estate, There are restaurants at unit no.s 12 and no. 14, adjoining the subject site. There is no local need for another restaurant / café.
- The applicants claim that the proposed use is more suitable than retail is not logical. Paragraph 11.2.6 of the development plan states that only bulky goods and local retailing needs will be permitted in the estate. A 429sq.m. restaurant is not 'local'. The appeal does not consider the specific development objective for the C1 zoned lands at / adjoining the Tuam Road (page 70 of the city development plan). The applicant fails to note that large scale restaurants / cafes are not permitted under the C1 zoning objective.
- The subject shop is currently trading. It is not vacant as stated by the applicant. The convenience store at no 11a has closed.
- The comparables mentioned by the applicant were all assessed under the previous development plan.

6.3.2. **Noel Elwood, Unit 11B Centrepoint**

- The proposed development if permitted would have an adverse effect on the wider area, due to its size and the number of visitors.
- The estate is nearing traffic / parking capacity. Any increase would have a detrimental effect.

7.0 **Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions on file. I am satisfied that the single issues raised is the principle of the proposed development.

7.2. Principle of development

- 7.2.1. The subject site is located in business / industrial park that provides a range of uses from industrial, office and bulky goods retailing. The upper floors of the subject building have office and residential use. The zoning objective for the park is “to provide for enterprise, light industry and commercial uses other than those reserved to the CC zone”, CC uses being city centre uses. As noted above neither café nor restaurant use are listed as being uses which would be compatible with or contribute to the zoning objective.
- 7.2.2. The Planning Authority has refused permission on the grounds of excessive scale and the injurious impact on the function and character of the area. The appellant has made the case that the proposed café / restaurant is a service retailing use that would provide a service to the immediate area. In response to the appeal, the appellant has revised the proposed development to provide only café / restaurant use on the ground floor., reducing the floor area from 429sq.m. to 243sq.m.
- 7.2.3. The proposed change of use from retail to restaurant use, is not considered to be “retail of a type and of a scale appropriate to the function and character of the area”, a use which is considered to be compatible to the CI zoning objective. I note that the appellant agrees that the proposed use cannot be considered to be a retail use.
- 7.2.4. However the Appellant has made the case that the proposed use is “service retailing”. I note that the development plan does not define “service retailing” (appendix 1 of the development plan). Service retailing is listed in section 11.2.6 of the development plan as a use “which may contribute to the zoning objective dependent on the CI location and the scale of development”. Notwithstanding the reduction in the proposed area, it is considered that the proposed café / restaurant at 243sq.m. is excessive, given the development plan requirement for a proposed use *to contribute to* the area, as opposed to providing a use which would provide a draw to the area.
- 7.2.5. As noted by the Observers and as confirmed by my site visit, there are four coffee shops within the immediate area of the subject unit, no. 1. Including a coffee shop at no. 11 immediately to the west of the existing retail store. The area is well served by

small scale cafes on a scale commensurate with servicing the immediate local needs of the residents, employees and visitors of the business / industrial park.

- 7.2.6. It is considered that the proposed development would undermine the primary commercial zoning objective of the area which is to provide for enterprise, light industry and commercial uses. The scale of the proposed development is not considered compatible with the zoning objective of the area. It is considered that the proposed development would unduly interfere with the primary use of the lands for CI purposes and would not be in keeping with the proper planning and sustainable development of the area.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise and it is considered that 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. I recommend permission be REFUSED for the following reasons

- 1 The scale of the proposed change of use from retail to restaurant use, is considered to be contrary to the zoning objective of the area which is to provide for enterprise, light enterprise and commercial uses other than those reserved to the city centre zone. The proposed development is not considered to be “retail of a type and of a scale appropriate to the function and character of the area” as required in the CI zoning objective for the area, nor is it a service retail use of a scale that would contribute to the CI zoning objective. It is considered that the proposed development would unduly interfere with the primary use of the lands for CI purposes, being of a scale that would service an area greater than immediate CI zoned lands. The proposed development, if permitted, would undermine the primary function of the Industrial / Business Park and would not be in keeping with the proper planning and sustainable development of the area.

Gillian Kane

Senior Planning Inspector

22 May 2018