



An  
Bord  
Pleanála

## inspector's Report ABP-303071-18

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<b>Development</b>	Permission for the development of a single storey, free standing café with access from existing shopping centre carpark.
<b>Location</b>	Westside Shopping Centre, Seamus Quirke Road, Galway.
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	18107
<b>Applicant(s)</b>	Hurley Property ICAV.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Dunnes Stores Susan Corbett. Peter Murphy, Lighting and Electrical, St Anthony & Claddagh Credit Union, Newsweek News Agency, Hair Republic Hair Dressers, Evergreen Health Food Shop, McSharry's

Pharmacy, Divilly's Butchers, Rose  
Garden Restaurant and Takeaway.  
OPW RSA Driving Test Centre

**Observer(s)**

None.

**Date of Site Inspection**

3<sup>rd</sup> February 2019.

**Inspector**

Bríd Maxwell

## 1.0 **Site Location and Description**

- 1.1. The appeal site has a stated area of 0.07 hectares is located within the surface car park area of the Westside Shopping Centre, fronting Seamus Quirke Road R338 to the west of Galway City. (approximately 1.8km west of Galway City Centre). The Séamus Quirke Road R338 is a busy radial route linking the western environs of Galway City with the N6 and other National Primary and secondary routes to the east of the city. It also serves as an important distributor road serving a number of retail and other suburban commercial developments along its alignment.
- 1.2. The entire Westside shopping centre occupies a site area of approximately 2.2ha and is currently occupied by 18 no commercial units ranging in size and predominantly comprised of independent retailers. The shopping centre is anchored by Dunnes Stores. To the front of the site adjacent to the Seamus Quirke Road there are two standalone buildings, a Maxol filling station and a McDonalds Drive thru restaurant. One point of vehicular access / egress serves the shopping centre from Bothar le Chéile to the west while pedestrian access is provided from Seamus Quirke Road. Car parking is provided at surface level predominantly to the front of the main building while servicing area and some limited parking is located to the rear.
- 1.3. Westside is a well-established district centre with a legacy of mainly convenience floorspace and range of local services including post office, church community facilities and credit union office. It exhibits an area in transition from older and more industrial nature uses to a gradual delivery of more diversified services and facilities.

## 2.0 **Proposed Development**

- 2.1. The application as set out involves permission for a single storey, free standing café with access from the existing shopping centre car park at the westside shopping centre. The development will include the provision of external signage, all associated landscaping, as well as all associated site development works and services.

2.2. The new building has an open floor plan and external finishes include curtain wall glazing limestone cladding and render finish with Kingspan roof. Indicative floor layout shows seating for 72 patrons.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

By order dated 8<sup>th</sup> November 2017 Galway City Council decided to grant permission and 10 conditions were attached which included the following:

Condition 2 "The building shall be used solely as a café serving primarily hot beverages and ancillary for provisions while the operator and all future operators of the unit shall be agreed in writing with the Planning Authority prior to occupation of the building.

Condition 3. Café opening times Mon-Wed 8am-6pm. Thursday 8am-9pm, Friday 8am-8pm, Saturday 8am-6.30pm, Sunday 9am-6.30pm.

Condition 10. Development Contribution €8,241 in accordance with the Development Contribution Scheme.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. Planning Reports

3.2.1.1 Initial planner's report sought additional information regarding car parking, details of proposed opening hours, ventilation, a reduction in extent of signage and details of waste management arrangements.

3.2.1.2 Final planning report notes issues raised in third party submissions. In relation to parking shortfall the designation of the site as a level 3 centre in the retail hierarchy is noted. Report concludes that the proposal complements the existing district centre designation and use would encourage more sustainable trip generation. Permission was recommended subject to conditions.

### 3.2.2. Other Technical Reports

3.2.2.1 Environment Section Report indicates no objection subject to conditions with regard to waste management.

3.2.2.2 Building Control officer indicates no objection.

3.2.2.3 Chief Fire Officer indicates no objection.

### 3.3. Prescribed Bodies

3.3.1 Irish Water indicates no objection subject to standard conditions.

### 3.4. Third Party Observations

3.4.1 Submission from Vincent Hannon Architects on behalf of Mr Michael O Hehir outlines objection on the basis of there being adequate food establishments within the centre. Retail function needs to be protected and control over proliferation of uses. Car parking shortfall would have a detrimental impact on ability of Westside shopping centre to provide its primary retail function. Parking assessment inadequate and figures do not accurately reflect usage.

3.4.2 Submission from Dunnes Stores objects to the proposal. Loss of parking spaces will give rise to traffic safety issues. Parking survey times do not accord with peak operating times and renders figures inadequate. Obstruction, visual clutter and adverse visual impact to car park.

3.4.4 Thornton O Connor Planning on behalf of Ms Susan Corbett 293 Corrib Park Newcastle, objects to the loss of car park and traffic implications. Parking survey out of date. Parking permit system came into operation in 2017 owing to lack of parking and car parking currently operating at almost full capacity. Access and egress backed up at peak times. Potential to compound existing difficulties.

3.4.5 O Donnellan & Co Architects submissions on behalf of a number of tenants of the Westside Shopping Centre namely Peter Murphy, Lighting and Electrical, St Anthony & Claddagh Credit Union, Newsweek News Agency, Hair Republic Hair Dressers, Evergreen Health Food Shop, McSharry's Pharmacy, Divilly's Butchers, Rose Garden Restaurant and Takeaway. OPW RSA Driving Test Centre. Object to the

proposal on grounds that the current traffic congestion will be compounded. No account of turning / off loading facilities. Health and safety risk to pedestrians. Addition of another food outlet where there are three is unnecessary. Parking spaces within the rear services yard should not be taken into account. Little use of public transport.

#### 4.0 **Planning History**

4.1 There have been a number of previous permissions on the wider site including.

**00/851** Permission for single storey free standing 'drive-thru' restaurant, with facility for sale of hot food for consumption off the premises for ancillary signage and LPG compound with access from existing shopping centre car park. Granted March 2002.

**01/229** Permission to amend permitted development PA ref 221/99 and 517/00 (1) Revisions to shopping mall. Canopy and sign (2) Revisions to garden centre and public toilets. (3) Omission of first floor retail (4) construction of first floor offices to rear of units 6-10 and fire escape stairs. (5) Construction of offices in lieu of retail to rear of no 7 (6) Relocate sprinkler tank to flat roof. Granted August 2001.

**00/858** Permission to construct new shopping mall / canopy top include new lift/stairs enclosure (b) Construct new retail area (c) Construct new garden centre/toilets (d) construct new offices and ancillary accommodation over existing retail units including sign to front € reduce service yard area (f) provide car parking to rear and make alterations to car parking area to front to include new landscaping /external lighting.

**05/517** Permission to change use of approved library PA Ref 221/99 to retail. Granted September 2000.

**99/221** (a)Extend retail units to rear at ground floor. (b) Construct new shopping mall canopy and sign to front of existing retail units © construct new garden centre (d) construct new retail area to first floor over existing retail units (e) construct new public library /exhibition area (f) relocate sprinkler tank to rear yard and reduce service area (g) provide car parking to rea and make alterations to include landscaping.

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1 The Galway City Development Plan 2017-2023 refers.

- The site is zoned C1. The objective “To provide for enterprise light industry and commercial uses”.
- The Westside area is designated in the retail hierarchy as a level 3 district centre.
- Design standards are set out in Chapter 11.
- Café Parking requirement is 1 space per 15 square metres.
- At 10.4 it is noted that Westside has a weak urban structure and poor physical cohesion. It lacks a strong urban definition and streetscape which means it has a poor legibility and sense of place. The objective for Westside is to improve connectivity, to increase attractiveness and encourage more sustainable street level community interaction and activity. This could be achieved through the re-development of some of the brownfield sites, improved permeability, reduction of the “barrier effect” of the Seamus Quirke Road and requirements that re-development include for more enclosure, good use mix, use of scale and massing to create more human scaled address to public areas and in general a better urban design regime. This coupled with more public realm improvements will complement works carried out to date and contribute to a more animated, vibrant streetscape. Particular note will need to be taken of the *SRD Guidelines* and *DMURS*.

Policy 10.4 Westside is Enhance the quality of the urban environment at Westside through the creation of a more enclosed, strong street edge on CI zoned lands along the Seamus Quirke Road, creating a high quality, active and vibrant streetscape.

### 5.2. Natural Heritage Designations

The site is not within a designated site, The nearest Natura 2000 site is the Lough Corrib SAC which is located within approximately 1.2km to the east.

### 5.3. EIA Screening

5.3.1 Having regard to the nature and scale of the development located within the built up urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 There are three third party appeals namely by Dunnes Stores, Thornton O Connor Town Planning on behalf of Ms Susan Corbett, 293 Corrib Park, Newcastle, Galway and by O Donnellan & Co Architects on behalf of on behalf of a number of tenants of the Westside Shopping Centre namely Peter Murphy, Lighting and Electrical, St Anthony & Claddagh Credit Union, Newsweek News Agency, Hair Republic Hair Dressers, Evergreen Health Food Shop, McSharry's Pharmacy, Divilly's Butchers, Rose Garden Restaurant and Takeaway. OPW RSA Driving Test Centre.

6.1.2 Grounds of appeal raise a number of issues in common which I have summarised as follows:

- Significant concerns arise in respect of the elimination of car parking.
- Site has a significant existing parking shortfall and proposal will exacerbate this. Proposal will give rise to traffic congestion
- Accuracy of parking survey is questioned. Carried out during the holiday period and now out of date. Updated survey required.
- Introduction of car parking in service yard to the rear of the building demonstrates that parking shortfall is significant. Spaces within the rear yard are unauthorised and should be omitted from any calculation.



- Assertions that the location adjacent to a Quality Bus Corridor will result in significant reduced demand for car parking spaces remains unfounded.
- Free standing location of the site will give rise to single use trips.
- Introduction of an additional food outlet will reduce the ability of the the three existing food outlets to trade profitably.
- Car park is too small to adequately absorb this form of development without adverse impact on the character of the shopping centre. Proposal will result in the existing shopping centre structure being visually segregated from the Seamus Quirke Road.
- Proposal is an ad hoc development which will diminish rather than complement the existing shopping centre character.

## **6.2 Applicant Response**

6.2.1 Responses by McCarthy Keville O Sullivan on behalf of the first party respond to the grounds of appeal as follows:

- Further surveys carried out during the Christmas period (7<sup>th</sup> 12<sup>th</sup> & 15<sup>th</sup> December found that during the peak period there were a minimum of 63 spaces observed to be free (23 spaces were temporarily out of use due to maintenance works).
- Discounting parking to the rear of Dunnes there are currently 279 spaces with 27 lost this will result in 242 spaces.
- Site boasts strong connections in terms of public transport which reduces the need for car parking spaces.
- Site is in a highly accessible area in terms of all modes of transport due to location on QBC within an established district centre and within an area with strong pedestrian and cycling links
- Proposal will not of itself generate a greater demand but will offer existing customers a choice of alternatives.
- Proposal will not substantially add to traffic generated.

- Proposed development is designed to reflect scale form and architectural vernacular present in the immediate area and provide a modern fit for purpose building.
- Represents a welcome urban design improvement.
- Appendix 3 comprises a report by Alan Lipscombe Traffic and Transportation Consultants outlining updated parking survey.

### **6.3 Planning Authority Response**

The Planning Authority did not respond to the appeal.

### **6.4 Further Responses**

6.4.1 Response from O Donnellan & Co Architects on behalf of Peter Murphy and other retailers in response to the 1<sup>st</sup> party response to the appeal asserts that the parking survey is subjective. Requirement of 539 spaces for existing outlets is far in excess of those available.

6.4.2 Response from Dunnes Stores asserts that the parking survey submitted is limited in scope and reliability accuracy is questioned. Optimal period for a parking survey is 12 hours. Parking survey fails to record that Europa Car Parks provided a traffic management services during December. No clarity regarding whether survey took account of service yard parking.

## **7 Assessment**

7.1 As regards the proposed use and impact on established operators within the centre I note that it not a matter for the planning system to prevent competition or trade diversion. Having regard to the commercial zoning objectives pertaining to the site I consider that the principle of the proposed development is acceptable. Having inspected the site and reviewed the documentation submitted in the appeals and responses thereto, I consider that the following are the main issues arising in this case.

### **Traffic and Parking**

## **Design and Visual Impact**

### **Other Matters**

#### **7.2 Traffic and Parking**

7.2.1 The issue of car parking is a key concern within the third party appellant's submissions and is the key source of objection to the proposal. In assessing the proposal in the context of Development Plan standards, the development would give rise to a demand for 25 car parking spaces (1 space per 8sq.m). As the proposal involves development on the existing car park the proposal also results in the loss of 27 existing spaces. The calculation of parking requirement arising for the established uses within the Westside Shopping Centre is 539 spaces whereas the existing car park provides a current total of 279 car parking spaces (discounting spaces to the rear of the shopping centre). The appellant parties assert that the existing shortfall is significant and the proposal will compound congestion.

7.2.2 The first party provided a traffic survey with the application which carried out in June July and August 2017 which observed a minimum of 97 spaces to be free with a corresponding maximum demand of 193 car parking spaces. More recent survey work carried out on 7<sup>th</sup> 12<sup>th</sup> and 15<sup>th</sup> December 2018 observed a minimum of 64 free spaces. I note that the third-party appellants have questioned the limited scope and hence accuracy and reliability of survey work. However, I consider that the level of survey provided is adequate to demonstrate the parking conditions pertaining. I further note the location of the site in close proximity to a quality bus corridor QBC, and proximity to well established residential communities thus enabling cycle and pedestrian access. Furthermore, the mixed nature of uses within the Westside Shopping Centre including convenience, comparison, retail services and community facilities and the complimentary nature of the proposed use provides for suitable conditions to enable dual and multi-purpose trips. In this regard I agree with the local authority planning officer's conclusion that in such circumstances flexibility should apply and the parking shortfall can be tolerated in this context. Having considered the details submitted I consider that the it has been demonstrated that the proposed

development will not result in serious traffic congestion, traffic hazard or obstruction or other road users.

### **7.3 Design and Visual Impact**

7.3.1 As regards the proposed design I consider that the proposal provides for an appropriate intervention and presents appropriately to the public realm. I note that the Development Plan sets out objectives for Westside to improve connectivity, to increase attractiveness and to encourage more sustainable street level community interaction and activity. I consider that the proposed design and use seeks to appropriately address public areas and will contribute to a more animated vibrant streetscape. The proposal retains an existing pathway from the Seamus Quirke Road to the Shopping centre thus protecting pedestrian permeability. Provision for high quality paving and soft and hard landscaping will aid the creation of a livelier streetscape. On balance I consider that the proposal is an appropriate design response to the site.

### **7.4 Other Matters**

7.4.1 As regards Appropriate Assessment having regard to the small scale of the proposed development and location within the built up area of Galway City, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individual or in combination with other plans or projects on a European.

## **8 Recommendation**

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

### **Reasons and Considerations**

Having regard to the commercial zoning objectives C1 for the site “to provide for enterprise, light industry and commercial uses” and its designation as part of a District Centre in the Galway City Development Plan, 2017-2023, to the site’s

location adjacent to a Quality Bus Corridor and to the provisions of the development plan with regard to parking, it is considered that the proposed development would not give rise to traffic hazard or injury to visual amenity and would be consistent with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by further plans and particulars submitted on 24<sup>th</sup> September 2018, 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 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. Details of the materials, colours and textures of all the external finishes of the proposed development, including the windows, canopies and doors, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The premises permitted herein shall be used solely as a café serving primarily beverages with ancillary food provisions.

**Reason:** In the interest of protecting the amenities of the area.

4. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission. No security shutters, shall be erected on the premises without the prior grant of planning permission.

**Reason:** In the interest of visual amenity and to protect the residential amenities of the area.

5. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

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

6. Prior to the commencement of development a scheme for the effective control of fumes and odours from the premises, including details of vents and ducting shall be submitted for the agreement of the Planning Authority.

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

7. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of amenity.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including areas identified for the storage of construction refuse.
- (b) Location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of on-site car parking facilities for site workers during the course of construction.

- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network.
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
  - l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

- (a) **Reason:** In the interest of residential amenities, public health and safety.

- 9. The site shall be landscaped in accordance with a comprehensive scheme of hard and soft landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

- 10. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing

with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. 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. The contribution 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. 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 the Board to determine the proper application of the terms of the Scheme.

**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.

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Bríd Maxwell

Planning Inspector

27<sup>th</sup> February 2019