



An
Bord
Pleanála

Inspector's Report ABP 303761-19

Development	Protected Structures: Additional part fourth floor extension and elevation changes to permitted hotel development (PL 17/133)
Location	39, 41-43 Dominick Street, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	18/375
Applicant(s)	Carroll's Inn Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Carroll's Inn Ltd.
Observer(s)	None
Date of Site Inspection	9 th May 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1.1. The appeal site is located on the western side of Dominick Street lower to the southeast of Galway City Centre. No's 39 and 41-43 Dominick Street Lower are protected structures and located within the Dominick Street lower Architectural Conservation Area.
- 1.1.2. Dominick Street is a busy commercial street with numerous high street activities. The rear of the site backs onto a small Mill Race, a Protected Structure, which links onto the Eglington Canal to the north-west. To the north of the site is Mill Street car park and to the immediate south is Ruxton Court, a three-storey apartment building.
- 1.1.3. No's 39 and 41-43 are early 19th Century three-storey limestone faced structures. No. 39 is in use as a public house and pizzeria. No's 41-43 are vacant.
- 1.1.4. The appeal site is rectangular in shape, 17.075m wide and 55m long respectively with a stated site area of 0.0966 hectares.

2.0 Proposed Development

- 2.1.1. The development comprises the modification of planning permission ref. 17/133 to include the construction of a part fourth floor extension, containing 9 additional hotel bedrooms and a lounge area; elevational changes and all necessary works and services to previously permitted hotel development.
- 2.1.2. The proposed works build on the permitted footprint of planning ref. 17/133 and is located to the centre and rear of the site. No works are proposed as part of the development to the existing structures of no's 39 and 41- 43 Dominick Street Lower. The development does provide for alterations to the elevations of the rear extension including a proposed brick/modular stone finish with selected aluminium frame windows with ventilation panels.
- 2.1.3. A Conservation Assessment accompanied the planning application.

3.0 Planning Authority Decision

- 3.1. Decision

Galway City Council issued notification to refuse planning permission for the following reasons:

1. The proposed development by reason of its additional height, scale, bulk and extent over and above the development approved under Planning Ref. 17/133 would constitute an over development of the site and by reason of its increased height volume and overbearing appearance would significantly detract from the character and amenities of the Protected Structures numbers 39, and 41-43 Lower Dominick Street, and from the character and amenities of the adjoining Protected Structure at number 45 Lower Dominick Street to the north and in particular to the rear facing the Mill Race which is a protected structure (RPS 8501).
2. The proposed development would significantly detract from the character of the lower Dominick Street Architectural Conservation Area as designated under the current Development Plan for the area in a historic area of the city and would contravene the provisions of the Development Plan under Section 8.2 requiring the protection of the character of such Protected Structures and Architectural Conservation Area. And as such the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. The planning report sets out the planning history for the site and notes the submissions on file. The report sets out that the buildings are protected and located in an Architectural Conservation Area. The site zoning and previous planning history and revised design are discussed. It was concluded that the additional floor while not visible from Dominick Street would be visible from the Mill Street Carpark and the Mill Race, which as a waterway is a protected structure. The proposed development by reason of additional height, scale, bulk and extent over and above the approved planning ref. 17/133 would constitute over development of the site and would detract from the character and amenities of the Protected Structures and the Architectural Conservation Area.

3.2.3. Other Technical Reports

Building Control - No objection Part 11 of the Building Control Regulations applies, and a Fire Safety Certificate and Disability Access Certificate will be required in respect of the development.

Drainage Section - no objection.

Irish Water – No objection subject to conditions

3.3. Third-Party Observations

One submission was made in relation to the development from An Taisce. A brief summary of the issues raised in the submission to the Planning Authority are set out below:

- The development represents overdevelopment of this sensitive site, is out of proportion to the immediate scale and character of the area, and an inappropriate encroachment on the aesthetic of adjacent Protected Structures and character of the Architectural Conservation Area.
- The proposal would present a significant negative visually discordant impact from the rear, visible from a number of different perspectives.
- The development is not in accordance with sustainable planning and should be refused.

4.0 Planning History

Site

17/133 - permission granted to demolish a building to the rear of 39 Dominick Street, alterations and extensions to 39 Dominick Street and 41-43 Dominick Street for a 43-bedroom hotel, public house, restaurant, and ancillary works and services.

16/50 – Permission granted to change part of the open space at the rear of numbers 41 & 43 Dominic Street to use as a beer garden.

12/78 - Permission refused for the following; 1) Extension of McElindens Pub into adjoining building, change of use from commercial/retail usage to public house, demolition and extension works and the erection of new traditional shopfront to no's 41 & 43 (39, 41 and 43 are protected structures).

05/501 / ABP REF.PL.61.217599 - Permission refused for the demolition of house, a construction of a five-storey mixed commercial/residential development including alterations and extensions to protected structures and construction of access bridge over waterway (protected structure).

The refusal reasons cited excessive height, scale and extent, would constitute over development of the site and would significantly detract from the character and amenities of the Protected Structures Nos. 39 and 41-43 Dominick Street Lower, and the Architectural Conservation Area.

5.0 Policy and Context

5.1. Development Plan

The site is governed by the policies and provisions contained in the Galway City Development Plan 2017-2023

- 5.1.1. The site is located in an area zoned CC – “To provide for city centre activities and particularly those, which preserve the city centre as the dominant commercial area of the city”.
- 5.1.2. Tourist related activities are a permissible use on lands that are zoned Objective CC.
- 5.1.3. The site is located in the Dominick Street Lower Architectural Conservation Area and No.’s 39 (RPS 3209), 41-43 (RPS 3211) are Protected Structures. There are numerous Protected Structures along Dominick Street lower and the Mill Race to the rear of the site is also protected (RPS 8501). No’s 39 and 41-43 are considered to be of Regional importance on the National Inventory of Architectural Heritage (Reg. No’s 30318011 and 30318010)
- 5.1.4. The indicative plot ratio standard for Objective CC is 2:1. Section 11.4.2 of the Development Plan states that in “the CC zone consideration will be given to development proposals in excess of the normally permissible plot ratio where such proposals would contribute to urban regeneration or make a significant contribution to urban character, this excess will be interpreted as a proportional increase only”.
- 5.1.5. Archaeology – The site is located within the zone of archaeological potential for the City.
- 5.1.6. Relevant policies and standards of the Galway City Development Plan 2017-2023 include:

- Section 8.7 Urban Design – Good architecture is essential in creating a good image of the city with a strong identity. The detailed design of a building and use of materials are important considerations. High quality architectural design is also important in the context of urban design having regard to the layout and intensity of blocks, plots and buildings. The density of development and the mix, type and location of uses are also key considerations.
- Building height -The scale of development in terms of height and massing can have a considerable impact on other buildings and spaces as well as views and skylines. Additional building height over and above the prevailing height can usefully mark points of major activity such as business districts, civic functions and transport interchanges. They can also however, have a considerable impact in the context of historic buildings, conservation areas, areas of natural heritage importance and can detract from a city's skyline and impinge upon strategic views
- Policy 8.7 Urban Design
- Encourage high quality urban design in all developments.
- Improve qualitative design standards through the application of design guidelines and standards of the Development Plan, in particular the Galway Shop Front and Signage Design Guidelines (2012) and Design Guidelines: Canopies (2011). Ensure that high quality urban design contributes to successful urban regeneration in the city.
- Encourage innovation in architecture and promote energy efficiency and green design.
- Proposals for buildings which are taller than the prevailing benchmark heights will only be considered where they do not have an adverse impact on the context of historic buildings, Architectural Conservation Areas, residential amenity or impinge upon strategic views.

5.1.7. Section 8.5: Preservation of Zones of Archaeological Interest.

5.1.8. Built Heritage

- Section 8.2 - Relevant polices in relation Built Heritage

Policy 8.2 Record of Protected Structures

- Encourage the protection and enhancement of structures listed in the Record of Protected Structures.
- Ensure new development enhances the character or setting of a protected structure. Avoid protected structures becoming endangered by neglect or otherwise by taking appropriate action in good time.
- Consult with the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs regarding any planning applications relating to protected structures and national monuments.
- Implement proactive measures to encourage the conservation of protected structures.
- Section 8.3 - Lower Dominick Street Architectural Conservation Area

Lower Dominick Street contains some of the best 18th and 19th century buildings, facades, shop fronts and original features to survive in long uninterrupted stretches in the city. It is an area of distinct urban form and streetscape. It has a unique setting bounded by the River Corrib and the Eglinton Canal.

Policy 8.3 -Architectural Conservation Area (ACA)

- Encourage the protection and enhancement of the character and special interest of designated Architectural Conservation Areas.
- Prepare and implement management plans for the conservation and enhancement of designated Architectural Conservation Areas.
- Ensure that developments within Architectural Conservation Areas enhance the character and special interest of the Architectural Conservation Areas.

5.1.9. National Policy and Guidelines

- Urban Development and Building Heights Guidelines for Planning Authorities (2018)
Section 3.2 states: Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the

area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.

- Architectural Heritage Protection Guidelines (2004)
Section 3.10.1 states: *“When it is proposed to erect a new building in an ACA, the design of the structure will be of paramount importance. Generally, it is preferable to minimise the visual impact of the proposed structure on its setting. The greater the degree of uniformity in the setting, the greater the presumption in favour of a harmonious design.”*

5.2. Natural Heritage Designations

The site is not located within or directly adjacent to any Natura 2000 sites. The site is located 100m west of Lough Corrib SAC (site code 00297).

5.3. EIA Screening

- 5.3.1. On the issue of Environmental Impact Assessment screening I note that the relevant class for consideration is class 10(iv) “Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere”. Having regard to the size of the development site (.0996ha) and scale of the development it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has submitted an appeal, the ground of which is summarised as follows:

- It is set out that the development is a modest part fourth floor extension with associated elevational changes to a previously permitted development
- Externally, the proposed development is only visible from the rear of the site and there are no alterations proposed to the existing streetscape along Dominick Street Lower.
- The overall height is generally consistent with the neighbouring property on Dominick Street (Aras na nGael).
- The design and elevational changes are not considered out of context in its setting and the scale is in keep with the existing protected structures. It is set out that the development will be a positive addition to the greater Dominick Street area.
- The proposed development has been designed to limit any impact on views of the protected structures both on site and nearby, so as to ensure the character and special interest of the Architectural Conservation Area is retained.
- The development will ensure the preservation of the buildings into the future.
- The development is in keep with the provisions of the Galway City Development Plan and will not represent overdevelopment of the site in terms of plot ratio, site coverage and building height.

6.2. Planning Authority Response

The Planning Authority responded to the grounds of appeal restating the planner's report.

7.0 Assessment

The main issues that arise for assessment by the Board in relation to this appeal can be considered under the following broad headings:

- Principle of Development

- Design, Overdevelopment and impact on Visual Amenity and Architectural Heritage
- Appropriate Assessment Screening

7.1. Principle of Development

- 7.1.1. The appeal site is located on lands that are zoned CC – “To provide for city centre activities and particularly those, which preserve the city centre as the dominant commercial area of the city” in the Galway City Development Plan 2017-2023.
- 7.1.2. On lands that are zoned Objective CC, ‘Tourist’ related activities are a permissible use. The proposed modification of planning permission ref. 17/133 for the construction of a part fourth floor extension; elevational changes and all necessary works and services to previously permitted hotel development is considered acceptable in principle.
- 7.1.3. The provision of a modern hotel use will enhance the overall vibrancy and vitality of this area and provide for critical mass of employment and recreational generating uses. I consider that in terms of the principle of development, there is policy support for this development.

7.2. Design, Overdevelopment and impact on Visual Amenity and Architectural Heritage

- 7.2.1. The site is located in the Dominick Street Lower Architectural Conservation Area and No.’s 39 and 41-43 are Protected Structures. The Planning Authority’s decision to refuse states the additional height, scale, bulk and extent over and above the development approved under Planning Ref. 17/133 would constitute an over development of the site and the increased height volume and overbearing appearance would significantly detract from the character and amenities of the Protected Structures immediate and adjoining the site and the protection of the character of the Architectural Conservation Area.
- 7.2.2. The architectural expression reflects a contemporary **design** block form with a central step in the building line. Whilst, the stepped building line reduces some of the bulk of the structure, the block form is not diminished by virtue of the uniform height and the uniform nature of the fenestration. The appellant argues that the façade has a

discipline about its break up and the modular masonry materials reflect a sense of quality and longevity considered appropriate within this historical context. I do not agree, and I consider the modular design and symmetrical rhythm of the façade treatment create a visually dominant form and building mass and as a result the building appears highly obtrusive and would be a visually incongruous feature at this location and detract from the architectural heritage.

- 7.2.3. Section 3.10.1 of the Architectural Heritage Protection Guideline state when it is proposed to erect a new building in an ACA, the design of the structure will be of paramount importance. This is reinforced in Policy 8.3 of the Development Plan which sets out the development in Architectural Conservation Areas should enhance the character and special interest of the Architectural Conservation Areas. I consider the design approach has little regard to the site context, the pattern, scale, bulk and form of adjoining development and would represent an unacceptable proposal in the context of the impact on the character and setting of the Protected Structures and the Architectural Conservation Areas. The development should be refused for this reason.
- 7.2.4. Plot ratio is a somewhat crude instrument in terms of measuring density and the avoidance of the adverse effects of **overdevelopment** and the specific nature and qualitative elements of the proposal need to be considered in terms of the assessment of the appropriateness of the development as proposed to its context. In assessing the wider considerations, it is appropriate to rely on the qualitative factors defining built form including height, design, and standards of public realm.
- 7.2.5. There is no indicative **site coverage** standards set out in the Development Plan. The indicative **plot ratio** figure for lands zoned Objective CC is 2.0 and it is noted that the proposed development on the site has a plot ratio of approximately 1.88:1.
- 7.2.6. The proposed additional floor will increase the height of the building to 16.34m over five floors. This is an increase of 2.14m from the approved planning permission PL. 17/133. The prevailing **building height** in the immediate vicinity of Dominick Street Lower is three stories. Similarly, the buildings and extensions to the rear of Lower Dominick Street are predominately three storey/two storey structures and appear subordinate to the protected structures fronting Dominick Street Lower. Clearly additional building height over and above prevailing height can have a considerable impact in the context of historic buildings. In my opinion the proposed building at

16.34m would be significantly taller than the immediately adjoining development to the rear of Dominick Street Lower and would represent a disjointed pattern of development when viewed from the Canal walk and the Mill Street car park, and in the wider context. Policy 8.7 Urban Design of the Development Plan sets out those proposals for buildings which are taller than the prevailing benchmark heights will only be considered where they do not have an adverse impact on the context of historic buildings and Architectural Conservation Areas.

- 7.2.7. The appellant argues that the Urban Development and Building Heights Guidelines for Planning Authorities (2018) encourages increased building heights and whilst I agree in principle, Section 3.2 of the Guidelines sets out that increased building height in architecturally sensitive areas should successfully integrate into/ enhance the character and public realm of the area, having regard to its cultural context. In my opinion the additional fourth floor would represent an increase in building height over and above the established character of the area and would be out of character in the context of the site.
- 7.2.8. The additional floor and elevational changes proposed relate to the new build element of the permitted hotel to the rear of the site facing the Mill Race and Mill Street car park. The planning officer in their assessment assert that the proposed development would have an **overbearing** impact. It is noted that the primary views of the development will be from the rear of the site, along the canal walk to the east, and the Mill Street Car Park to the north and the wider north-eastern and north-western approaches to the site. Views of the proposed development from elsewhere will be largely screened by existing buildings. There are a number of three-storey type developments in the vicinity of the site. However, the proposed extension is not set in a streetscape context, and, the proposal will be a prominent feature in the context of the site and will have a visually overbearing impact.
- 7.2.9. In conclusion, the proposed additional floor by reason design, scale and massing would be a visually incongruous feature at this location, detract from the architectural heritage, would seriously injure the visual amenities of the area and fails to adequately respond to its context or integrate successfully with the immediate and surrounding built environment.

7.3. Appropriate Assessment Screening

- 7.3.1. The site is not located within or directly adjacent to any Natura 2000 sites. Lough Corrib SAC (site code 00297) is located 100m west of the site. The Mill Race water course is located to the immediate rear of the site. The Mill Race connects to the Eglinton Canal and then the Corrib River.
- 7.3.2. Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways.
- 7.3.3. There is a potential link via the water environment (the impact ‘pathway’), with the Natura 2000 site (the ‘receptor’), the Lough Corrib SAC (site code 00297). Conservation objectives have been prepared for the Lough Corrib SAC (site code 00297).
- 7.3.4. **Conservation Objectives:** to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected.

<i>European Site</i>	<i>Site Code</i>	<i>Relevant QI's and CI's</i>	<i>Distance</i>
Lough Corrib SAC	00297	The site is of immense importance for the occurrence of scarce and specialised habitats, as well as animal and plant species. Lough Corrib is the second largest oligotrophic lake in the country and is a superb example of a hardwater system. The site holds 14 Annex I habitats, 6 of these are priority Annex I habitats of the EU Habitats Directive.	100m west of the subject site.

		<p>Priority habits include:</p> <p>Bog Woodland</p> <p>Limestone Pavements</p> <p>Petrifying springs with tufa formation</p> <p>Calcareous fens</p> <p>fresh water habitats and species, including extensive freshwater pearl mussel, otter, White-clawed Crayfish</p> <p>Sea Lamprey, Brook Lamprey and Salmon.</p> <p>Important for wintering and breeding birds with White-fronted Goose, Common Tern and Arctic Tern.</p>	
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- 7.3.5. There is a potential link via the water environment (the impact ‘pathway’), with the Natura 2000 site (the ‘receptor’), the Lough Corrib SAC (site code 00297). Therefore there is potential for indirect effects on surface water quality during site preparation and earthworks. However, given the separation distance of 6m between the building works and the Mill Race watercourse, the serviced urban nature of the site and the small scale of the development, it is not considered that there is any likelihood of significant negative effects on the SAC.
- 7.3.6. I consider it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site, the Lough Corrib

SAC (site code 00297) or any other site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

I recommend that planning permission for the proposed development should be refused for the reason and considerations, as set out below.

9.0 Reasons and Considerations

Having regard to the massing, scale and design of the proposed development, it is considered that the proposed development would be highly obtrusive, would be a visually incongruous feature at this location, detract from the architectural heritage, would seriously injure the visual amenities of the area and fails to adequately respond to its context or integrate successfully with the immediate and surrounding built environment. Furthermore, the proposed development would set an undesirable precedent for similar developments in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Irené McCormack
Planning Inspector

17th May 2019