



An
Bord
Pleanála

Inspector's Report

ABP-304912-19

Development	Erection of an external canopy and covered area with new external signage. Protected Structure RPS 10308.
Location	An Sult College Bar, National University of Ireland, University Road, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	19122
Applicant(s)	NUIG Students Union Commercial Services
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Corrib Rowing & Yachting Club
Observer(s)	None
Date of Site Inspection	26/09/2109
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is the Sult bar / café on the grounds of NUIG, in central Galway. The bar, located in the southern end of the university campus abounds the Eglinton Canal. To the north-east of the subject site are two rowing / yachting clubs that use the proximity of the waterway for their recreational pursuits.
- 1.1.2. There is an outdoor seating area on the eastern side of the bar. A walkway to the adjoining rowing clubs is gated.

2.0 Proposed Development

- 2.1. On the 1st May 2019, planning permission was sought for the erection of an external canopy and covered area, with external signage at the Sult College Bar in NUIG. The building is a protected structure so the application was accompanied by an Architectural Statement / Conservation Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 24th June 2019, the Planning Authority issued a notification of their intention to GRANT permission subject to 9 no. conditions. Condition no. 2 requires the development to be carried out in accordance with the Architectural and Archaeological Conservation report. Condition no. 3 requires that all works be supervised by a conservation architect. Condition no. 5 requires that the canopy light be used in emergency fire alarm situations only. Condition no. 6 requires the omission of the proposed sign on the southern elevation.

3.2. Planning Authority Reports

- 3.2.1. **Environment Department:** Two Waste Management conditions.
- 3.2.2. **Planning Report:** Proposed development is acceptable with the exception of the proposed sign on the rear elevation. This sign is unnecessary and it detracts from the protected structure. Proposed development will not interfere with the existing pathway to the rowing club. Recommendation to grant permission.

3.3. **Third Party Observations**

- 3.3.1. The Corrib Rowing & Yachting Club objected to the proposal on the grounds that it would impede the Clubs right of way at the back of the Sult bar.

4.0 **Relevant Planning History**

- 4.1.1. Planning Authority reg. ref. **17/22**: Permission granted for external signage fixed to the protected structure. Signage for the College Bar at the subject location was omitted by way of condition.

5.0 **Policy Context**

5.1. **Galway City Development Plan 2017 – 2023**

- 5.1.1. The subject site is located on lands zoned CF: Community, Cultural and Institutional. The stated objective is to provide for and facilitate the sustainable development of community, cultural and institutional uses and development of infrastructure for the benefit of the citizens of the city.

- 5.1.2. Section 8.2 of the development plan refers to Built Heritage and states that it is Council policy to 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, Consider the inclusion in the Record of Protected Structure of buildings and structures of special interest, Consult with the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs regarding any planning applications relating to protected structures and national monuments and Implement proactive measures to encourage the conservation of protected structures.

- 5.1.3. **Section 11.6** refers to **Advertisements and Signage**. It states that

- New signage or advertisements shall respect the scale, character and setting of the building to which it is attached and have regard to the extent of existing signage on the site.
- No large scale internally illuminated signs or digital display signs or projecting spotlights shall be permitted.
- Lettering shall only be permitted when it is in proportion to the size of the fascia.

- In general signage or advertisement shall not be permitted on upper floors.
- In general no projecting signs shall be permitted, consideration will only be given to small scale projecting signs that are integral to the shop front.
- Particular consideration will be given to the incorporation of bi-lingual wording in signage and advertising.
- Further detailed design guidance is given in the City Council's *Galway Shop Front and Design Guidelines*.

5.2. Natural Heritage Designations

5.2.1. The subject site adjoins the Lough Corrib SAC

5.3. EIA Screening

5.3.1. Having regard to nature of the development and the urban location of the site 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. The Corrib Rowing and Yachting Club have submitted an appeal against the decision of the Planning Authority to grant permission. The grounds of the appeal can be summarised as follows:

- Inadequate public notification of the proposed development was posted.
- The existing right of way of the club's members to access the club has not been adequately protected by the developer. The existing moveable barrier is not complete . This allows patrons of the bar to block the right of way, curtailing the members of the club. This has distressed members of the club on occasion.
- The health safety and welfare of all users of the right of way and the bar / restaurant is paramount.
- The only solid barrier between the bank and the canal is a 1m metal railing.

- The proposed new structure would increase the number of patrons in the outside seating area, increasing the risk of an accident.
- The applicant is requested to erect a permanent barrier, dividing their property from the right of way.

6.2. Applicant Response

6.2.1. The applicant has responded to the third-party as follows:

- The development was advertised as per the Planning and Development Regulations.
- In 2016 the applicant placed planters along the terrace to delineate the right of way. These cannot be moved and are still in situ. Narrow gaps between the planters allow exit in the case of an emergency.
- The right of way exists for access to the University and the rowing club.
- The appellants photos were taken many years ago. They pre-date the installation of the planters. The furniture shown in photo 3 is not in the ownership of the Students union commercial services.
- Where furniture is moved by patrons, the management of the Sult bar request that it be returned.
- A sign highlighting the use of the right of way by the rowing club, and a request that it be kept clear has been erected.
- The applicant would welcome a meeting with the appellants.
- There are no records of patrons falling into the canal at this location.
- The applicants request to erect a barrier ignores that a barrier currently exists.
- The Board is requested to grant permission.

6.3. Planning Authority Response

6.3.1. The Planning Authority have responded to the third-party appeal as follows:

- The proposed development was deemed to be in accordance with the development plan

- The appellants main concern is potential interference with the right of way. It is submitted that this is a civil matter. The Boards attention is drawn to section 34(13) of the Planning and Development Act 2000, as amended which provides that a person shall not be entitled solely by reason of a permission under this section to carry out any development.
- The Planning Authority would have no objection to a semi-permanent low barrier delineating the right of way, provided it was lower in height than the existing low railing and would not interfere with the setting of the Eglinton Canal which is a protected structure.
- The Board is requested to grant permission.

6.4. **Applicants Response to Planning Authority Response**

6.4.1. The applicant, via an agent, has responded to the submission of the Planning Authority. Their response can be summarised as follows:

- The Applicant concurs with the Planning Authority's finding that the proposed development complies with the Galway City Development Plan.
- Regarding the appellants request for a semi-permanent barrier delineating the right of way, the applicants own the subject land bordering the Eglinton Canal. A pedestrian right of way to the Yachting club exists across the path. This right of way provides a right of way to pass the land, subject to the terms of the relevant deed. It does not give ownership or the right to control the use of the land.
- The right-of-way is demarcated by heavy planter boxes since 2013. Single person seating has been removed and replaced with difficult to move picnic benches. Signage has been erected and staff actively discourage patrons from obstructing the right-of-way. Photos are submitted which show these measures.
- The applicant is opposed to the suggestion of a semi-permanent low barrier as it would raise fire safety concerns for management and users of the bar.
- It is submitted that the measures put in place by NUIG are sufficient and that the appellants concerns are a civil matter.

6.5. Appellants Response to Planning Authority submission

6.5.1. The appellants have responded to the submission of the Planning Authority. The response can be summarised as follows:

- The Club continue to support the Development Plan's objective of ensuring the vibrancy and amenity of the city centre.
- The appellants wish to 'copper-fasten' their lawful right to the right-of-way. They do not wish to embark on a civil case so long as their legal rights are not compromised.
- The Club wish that the applicant had notified of their intention to develop the site.
- The Club would be happy with the Planning Authority's suggestion of a semi-permanent low barrier, if the Planning Authority are satisfied with the health and safety of such a measure.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the single issue is the principle of the proposed development.

7.2. Principle of the Proposed Development

7.2.1. The proposed development of a stand-alone canopy providing shelter to the outdoor seating area of a college bar, within the college campus is acceptable in principal. The conservation impact assessment submitted with the application states that in order to protect the existing structure, the proposed canopy will be supported on three stand-alone columns. The proposed signage is noted to be minor in nature and scale. The cumulative impact of both developments is stated to not adversely affect the historic character of the building.

7.2.2. I note the condition of the Planning Authority to omit the proposed signage on the grounds that it would negatively affect the existing structure. Given the minor scale of the signage and the use of similar signs on the adjoining structure, I see no need for its omission. The proposed signage on the northern elevation is entirely within the window / door elevation and so is easily reversible should the need arise.

7.2.3. The appellants have not raised the issue of the signage or the proposed canopy in their appeal of the decision of the Planning Authority. They state that the proposed development may intensify use of the outdoor seating area which may lead to accidents at the canal. I concur with the submission of the Planning Authority that the proposed development has no impact on the existing right of way and that this is a civil matter that must be addressed between the two parties. Were the Board to refuse permission for the proposed canopy and / or signage, it is unlikely the numbers using the outdoor seating area would change significantly. I am satisfied that the proposed development has no impact on the existing right of way.

8.0 Recommendation

8.1. That permission be granted in accordance with the following reasons and considerations and subject to the following conditions:

9.0 Reasons and Considerations

9.1.1. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the protected structure, the adjoining Canal or any property in the vicinity. The proposed development for which permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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

Gillian Kane

Senior Planning Inspector

10 October 2019