



An
Bord
Pleanála

Inspector's Report ABP-305537-19

Development	Construction of 3 to 7 storey building, demolition of the building in the northeast corner of the site, construction of a 7 storey building with a junior library and office reception at ground floor and office use to all upper floors.
Location	Hynes Building, St. Augustine Street, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	19200
Applicant(s)	O'Malley Groups (Homes + Development) Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	O'Malley Groups (Homes + Development) Ltd
Observer(s)	MetLife Innovation Centre Limited

An Taisce

Date of Site Inspection

05th December 2019

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.3124 hectares, is located within Galway City Centre to the south west of Eyre Square. The appeal site is occupied by two three-storey structures both of which are in office use. The appeal site has road frontage along St. Augustine Street and Merchants Road. The existing structures on site consist of a smaller three-storey building located on Merchants Road with a library at ground floor and office use on the two floors above. The larger of the two structures on site consists of a three-storey office building which has road frontage along Merchants Road and St. Augustine Street. Adjoining uses include a three-storey office building to the north east and a four-storey office building to the south west (Augustine House) along the Merchants Road frontage. Augustine House also adjoins the site to the south west along St. Augustine Street. To the north east along St. Augustine Street is a five-storey office building.

2.0 Proposed Development

2.1. Permission is sought for demolition of an existing building at the northeast corner of site (building known as St. Clare's Walk Building) and construction of a new seven-storey building with a new junior library and office reception at ground floor and office use on all upper floors. The proposal also entails the construction of an additional 3 no. floors over part of the Hynes Building on Augustine Street. The proposal also entail alterations to the elevations on Augustine Street and Merchants Road, as well as other associated site development works.

2.2. The existing structure on site has a gross floor area of 6,194sqm. It is proposed to demolish part of the existing structure (779sqm) and construct an additional floor area of 3,057sqm. The proposal entails an increase of 2,078sqm over the existing floor space on site (total gross floor area of 8,272sqm).

3.0 Planning Authority Decision

3.1. Decision

Permission refused based two reasons...

1. it is considered that the proposed development by reason of its excessive density, would represent an over-development the site and would be contrary to the maximum permitted plot ratio standard set out under Section 11.3 of the current City Council Development plan 2017-2023 for development on city centre zoned lands. The proposed development would, therefore be contrary to the Galway City Development Plan 2017-2023 and to the proper planning and sustainable development of the area.

2. The design and visual appearance of the proposed buildings is considered to provide an overbearing expression onto the streetscape and offers little relationship with the surrounding urban fabric, greatly detracting from the character of the area. The building is considered to be volumetrically overwhelming, visually dominant and excessive in terms of overall scale and height. If granted, the proposed development would result in a detrimental impact on visual integrity of the streetscape and neighbouring Galway City Core Architectural Conservation Area, whilst setting an undesirable precedent for similar developments in the future. The proposed development would, therefore be contrary to the Galway City Development Plan 2017-2023 and the proper planning and unsustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (30/08/19): The proposal was considered to have an excessive plot ratio relative to the maximum permitted under Development Policy, a disproportionate and negative visual impact in the context of streetscape and surrounding area. Refusal was recommended based on the reasons outlined above.

3.2.2. Other Technical Reports

Irish Water (30/07/19): No objection.

Executive Engineer (15/08/19): No objection.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third Party Observations

3.4.1 A submission from MetLife Global Technology.

- The observers are occupants/leaseholders of existing office accommodation within the Hynes building and note they have not consented to the proposed development and that the proposal would have an adverse effect on the existing use of the building.

4.0 Planning History

4.1 17/149: Permission granted for signage on the external facade at ground floor level.

4.2 16/289: Permission granted for alterations to the existing floor area within the building envelope through the removal and infill of stairs between ground and first floor levels; infill of an existing internal lightwell at first floor level, and the amendment of an existing internal lightwell at second floor and roof level; alterations to the front entrance and associated entrance tower at St Augustine Street. The development will also consist of the construction of a new set back fourth floor (1,358 sq m), roof plant and associated screening at roof level; the change of use of 359 sq m at ground floor level (excluding library) from Class 2 offices (where the services are provided principally to visiting members of the public) to Class 3 offices; elevational alterations, including revisions to doors and windows; and all site development works above and below ground. The entire development will result in a four storey building with roof plant (total gross floor area c. 6,836 sq m (an increase of c. 1,363 sq m))

- 4.3 16/223: Permission granted for construction of 97 sq m new office floor space within the building envelope through the removal and infill of stairs between ground and first floor levels; infill of an existing internal lightwell at first floor level, its enclosure with a roof- light at roof level; and the amendment of an existing internal lightwell at second floor and roof level. The development will also consist of: the change of use of 359 sq m at ground floor level from Class 2 Offices (where the services are provided principally to visiting members of the public) to Class 3 Offices; construction of a screened external roof plant area; elevational alterations, including revisions to doors and windows; and all site development works above and below ground.
- 4.4 PL61.219516 (16/501): Permission granted for additional penthouse floor to existing 3-storey office building including elevational changes and other alterations.
- 4.5 05/922: Permission granted for retention for change of use to office space from that previously granted under planning ref. No. 131/68 as retail and storage to part of the first floor level.
- 4.6 05/332: Permission granted to the Department of Social and Family Affairs for development, which will consist of new staff entrance and associated works.
- 4.7 03/729: Permission granted to the Department of Social and Family affairs for the conversion of an existing entrance / yard area into an enclosed courtyard with disabled ramp and lift, all at the rear subject to one condition.
- 4.8 96/785: Permission for the construction of a new external façade to the Merchants Road elevation.
- 4.9 96/607: Retention permission granted for office at first and second floor levels.
- 4.10 68/131: Original planning permission granted for existing retail and office development.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the Galway City development plan 2017-2023. The appeal site is zoned 'CC' with a stated objective 'to provide for city centre activities and particularly those, which preserve the city centre as the dominant commercial area of the city'.

Section 11.4.2: Plot Ratio

- In general for new development, the maximum plot ratio permitted will be 2:1.
- In the CC zone consideration will be given to development proposal in excess of the normally permissible plot ratio where such proposal would contribute to urban regeneration or make a significant contribution to urban character, this excess will be interpreted as a proportional increase only.
- Where a site has an established plot ratio in excess of the general maximum for its zone, re-development may, in exceptional circumstances, be permitted in line with its existing plot ratio if this conforms to the proper planning and sustainable development of the area.

The appeal site is located on the edge of the City Core Architectural Conservation Area (Fig 8.1). It is described as....

"The medieval core of Galway is a mix of streetscape and buildings of many periods. The layout and the scale of some of the streets reflect the medieval street pattern. The City Core is the most important area of built heritage in Galway. Its designation is beneficial in ensuring the area character is enhanced and protected".

Policy 8.3 Built Heritage

Ensure that developments within Architectural Conservation Areas enhance the character and space interest of the Architectural Conservation Area.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by MKO on behalf of O'Malley Groups (Homes + Development) Ltd. The grounds of appeal are as follows...

- The appellants notes that the plot ratio of the proposed development is 2.71:1 with the requirement under development policy being 2.0:1. The appellant notes that a previous permission on site under 16/289 had a higher plot ratio and that in refusing the proposal the City Council is being inconsistent. It is noted that assessing the proposal purely on plot ratio is a narrow focus and the overall impact of the proposal in terms of visual impact and adjoining amenities should be taken into account.
- The appellants refer to appeal ref no. PL61.219516, which allow for a higher plot ratio. The appellants also note that the increased density and height is in keeping with National Policy (National Planning Framework and Urban development and Building Heights, Guidelines for Planning Authorities).
- The appellants note a number of precedents in the area where higher plot ratios were permitted as well additional height (ABP-300275-17 and ABP-304238-19).
- It is considered that proposal would have an acceptable visual impact and a design statement was submitted in support of the application. The increase in height is dealt with in an acceptable manner with a setback of the upper levels minimising the visual impact.
- It is noted that other than the leaseholder no other third party submission or objections were received.

- The proposal is an upgrade of the existing St. Clare's Walk building which is inefficient and not up to modern standards. The proposal represents an improved level accommodation and would have a positive impact at this city centre location.
- The proposal for additional and improved development in a more compact dense forms is consistent with the objectives of National Policy (National Planning Framework and Urban development and Building Heights, Guidelines for Planning Authorities).
- It is noted that the increase in height would be acceptable in the context of visual amenities, national policy objectives and there are precedents for such increase in height with the city centre at other locations.
- It is noted that the visual impact of the proposal is acceptable in the context of the location adjoining an ACA and that the viewpoints and associated photomontages submitted illustrate this fact.
- The appellants note that the proposal would be workable with one floor omitted and would consider such to be acceptable if it is considered necessary by the Board.

6.2. Planning Authority Response

6.2.1 Response by Galway City Council.

- It is noted that the issues raised were given due regard in the assessment of the application. The Planning Authority request that the decision to refuse permission be upheld.

6.3. Observations

6.3.1 An observation has been submitted by McGill Planning on behalf of MetLife Innovation Ltd.

- The observers are current occupants/leaseholders of office accommodation within the Hynes Building.

- The observers note the reason for refusal and indicate support for the reasons for refusal noting the proposal would have excessive plot ratio.
- The observer raises concerns regarding the likely construction impact and the effect it would have on the ability of the observers to remain in-situ. There is a lack of a construction management plan or an acknowledgement that the existing tenants are operating on site.
- The observer is supportive of the second refusal reason and notes that there is no justification for the increased height without regard to its context in a city centre ACA. It is noted that national policy does not justify the proposed increase in height which would be detrimental to the character of the area.
- The observer questions the feasibility of carrying out the permission due to the continued use of the structure by the observer for foreseeable future including beyond the terms of any five year permission. The observer questions whether there is sufficient legal interest to carry out the development and cite a number of legal cases and a recent Board decision in this regard (ABP-302727-18).

6.3.2 An observation has been submitted by An Taisce.

- The proposal is a sensitive location, adjoining protected structures, within an ACA, adjoining a recorded monument (city wall) and within the zone archaeological potential. The proposal would have an adverse visual impact in regards to architectural heritage and character.
- The proposal contravenes development plan policy regarding plot ratio, ACA's and the quantum of office space proposed at this location.

7.0 **Assessment**

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Design, scale, plot ratio.

Adjoining amenities and existing activities on site.

Appropriate Assessment.

7.2. Design, scale, plot ratio.

7.2.1 The proposal entails the demolition of part of a three-storey existing office development (including an existing library use) and construction of an extension of the existing structure with an alteration elevations on St. Augustine Street and Merchants Road and the addition of three additional storeys over part of the existing structure. Permission was refused based on two reason, which are outlined above with the main concerns relation to overdevelopment/excessive plot ratio and an adverse impact due to excessive scale and volume of development within a city centre ACA.

7.2.2 The existing structure on site has a gross floor area of 6,194sqm. It is proposed to demolish part of the existing structure (779sqm) and construct an additional floor area of 3,057sqm. The proposal entails an increase of 2,078sqm over the existing floor space on site (total gross floor area of 8,272sqm). On the issue of plot ratio the existing structure has a plot ratio of 2:1, the proposed development has a plot ratio of 2.6:1. The proposed plot ratio is in excess of that indicated under Development Plan policy (2:1) however it is noted that development in excess of such is permissible under certain circumstances as outlined above under the planning policy section. I would note that plot ratio is not a sole determining factor regarding development and the overall physical and visual impact of the proposal should be assessed on its merits.

7.2.3 The proposal was considered to be overdevelopment of the site and visually dominant at this location. The appeal site has road frontage along St. Augustine Street and Merchants Road. On the Merchants Road frontage the proposal rises to four-storeys along the established building line (projecting façade at first second and third floor) with a setback to the fourth floor and then a further setback of the fifth and sixth floors. Along the Merchants Road frontage the proposal includes a projection at

ground floor level and increase to five-storeys along the established building line with the sixth floor setback from the floors below. The details submitted also include photomontages showing the existing and proposed development along both St. Augustine Street and Merchants Road as well as from a number of locations in the surrounding area. I am satisfied that the photomontage submitted give an accurate illustration of the visual impact of the proposed development.

7.2.4 I would consider that there is scope for the provision of some additional height at this location in particularly with a setback of the upper levels from the established building line, I would however have concerns regarding the overall visual impact and character of the proposed development, in particular the design of the development along the Merchants Road frontage. I would consider that the proposed development has a particularly obtrusive impact along this frontage and features a design that has heavily framed elements that project beyond the established building line and appear be visually, dominant, bulky in appearance and unattractive aesthetically. The proposed development would have a disproportionate visual impact along the Merchants Street frontage and would be detrimental to the visual amenities of the area. I would consider that the facade along St. Augustine Street is not as obtrusive due to the existing projecting elements of the existing structure beyond the building line of the new elements as well as the projecting building line of the adjoining building to the north east. In the context of the city centre ACA, it notable that the north western facade (St. Augustine Street frontage) of the proposal is on the edge of the ACA, which is to the north of the site. I am satisfied that the proposal does not impact on the character of the ACA, however I do consider that the level of development and design of such on the Merchants Road frontage is poor is design and inappropriate in scale and visual impact in the context of the streetscape.

7.2.5 I am satisfied that the overall visual impact is confined to the streets it is located on with the proposed development unlikely to be visible in the wider context of the city centre and such is adequately demonstrated in the photos submitted by the applicant/appellant.

7.3 Adjoining amenities and existing activities on site:

7.3.1 An observation has been received from the current occupants of the office component of the existing structure on site (MetLife Innovation Ltd). The observers are leaseholders within the existing structure and raise concerns regarding the potential impact of the proposed development in terms of its continued operation on site. The observer questions the feasibility of carrying out the development considering the observer's existing and ongoing tenancy for the foreseeable future.

7.3.2 The applicants in this case are the owners of the property and have sufficient legal interest to make the application in question. The very act of granting permission does not necessarily mean that the applicant will be able to implement the permission in question and it is onus of the applicants to ensure that they have sufficient rights and entitlements to carry out the permission. It is clear that in this case the applicant/owner of the building subject to this proposal has an existing leaseholder. It is possible that the applicant may have to reach some agreement with the leaseholder to facilitate the proposed development. Notwithstanding such possibility, this is not a planning consideration and has no influence on the process of assessing the proposed development. The proposal is being assessed on its merits in regards to the proper planning and sustainable development and the issue of agreements between landowner and tenants is not a consideration or reason to preclude granting permission in this case.

7.3.3 I would note that the proposed development would have no significant or adverse impact on the amenities of any of the adjoining properties one either side of the appeal site fronting onto St. Augustine Street or Merchants Road.

7.4 Appropriate Assessment:

7.4.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would 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 refusal based on the following reason.

9.0 Reasons and Considerations

1. The design and visual appearance of the proposed development is considered to provide an overbearing expression onto the streetscape and offers little relationship with the surrounding urban fabric, greatly detracting from the character of the area. The building is considered to be volumetrically overwhelming, visually dominant and excessive in terms of overall scale and height, in particular along the St. Augustine Street frontage. The proposed development would result in a detrimental impact on visual integrity of the streetscape, whilst setting an undesirable precedent for similar developments in the future. The proposed development would, therefore be contrary to the proper planning and unsustainable development of the area.

Colin McBride
Planning Inspector

21st January 2020