



An  
Bord  
Pleanála

## Inspector's Report ABP-312770-22.

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<b>Development</b>	Removal of stone wall at Stephen Street carpark and rebuild, using existing materials with a new window and door openings to match existing parapet height and alterations to entrance on Bridge Street.
<b>Location</b>	The Building Block, Bridge Street, Sligo.
<b>Planning Authority</b>	Sligo County Council
<b>P. A. Reg. Ref.</b>	21 465
<b>Applicant</b>	The Building Block Co-Ownership.
<b>Type of Application</b>	Permission
<b>Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Anne Marie Scanlon
<b>Date of Site Inspection</b>	21 <sup>st</sup> June, 2022
<b>Inspector</b>	Jane Dennehy

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## 1.0 Site Location and Description

- 1.1. The site subject of the application is that of a courtyard area extending behind properties which have frontage onto Bridge Street. There is a single storey building within the courtyard and at the west side there is a limestone wall on the outside of which there is green open space the Stephen St, carpark and buildings in residential, retail and café/bar use.
- 1.2. The courtyard and associated building are adjacent to and the Waterfront House a three-storey building also known as the Building Block which is also in the ownership of the applicant and in use as co working space for rental by remote workers. It has frontage onto Bridge Street, the Riverside and open space adjacent to Stephen Street Carpark between the limestone wall on the boundary and the Stephen Street carpark. The main entrance to the main Waterfront building is at ground floor level from the walkway (Norbert Ferguson Parade) adjacent to the Garvoge river. A retail unit is located at ground floor level with access from the walkway.
- 1.3. There is a gated access (operated by a fob) beneath an arch off Bridge Street and at its northern end of the courtyard space an arch and pedestrian lane extends through to the Stephen St carpark.
- 1.4. No 5 Bridge Street is in residential use at upper floor level with an entrance off Bridge Street. This dwelling includes accommodation built over the archway entrance to the courtyard and single storey building within the application site. At the rear of this dwelling there is a timber staircase between the upper floor accommodation and courtyard. At ground floor level at No 5 there is a auctioneer's premises.
- 1.5. The properties along Bridge Street, most of which appear to be two storey nineteenth century buildings are in a mix of commercial retail including café use and residential uses.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:
  - Removal of stone wall within Stephen Street carpark.

- Reconstruction of the stone wall to match the existing parapet height with re-use of existing materials, a new window and new door openings.
- Alterations to the existing entrance on Bridge Street.
- The lodged plans indicate alterations at the entrance under the archway off Bridge Street and providing for a single metal gate opening with planting and signage to the side and enclosed bin storage with doors opening outwards. A dedicated cycle parking area is also shown adjacent to the courtyard and a staircase. Replacement windows and doors the lobby and WCs on the east facing elevation courtyard elevation with existing render made good. The height is 3354 mm and is unchanged.
- The elevation to St Stephen Street Carpark as proposed shows the existing wall reconstructed in stone with six double glazed aluminium windows/doors to a parapet height of 4784 mm which is equivalent to the height of the existing render wall which is located behind the existing stone wall which is to be removed and rebuilt.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

By order dated, 31<sup>st</sup> January, 2022, the planning authority decided to grant permission subject to five conditions with requirements of a standard nature.

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

- 3.2.1. The planning officer in his report refers to the objectives of the local authority for public realm improvements in the area which includes Stephen Street carpark as being suitable for a central animated square of high quality. He notes the design for the proposed development as being appropriate to the specification or the levels for the proposed public realm improvements at Stephens Street carpark and observes that the proposed development is positive and in keeping with the streetscape. It is also stated that the applicant has complied with legislation with regard to the rights of way and that the issues raised by the appellant are Civil Matters.

3.2.2. The Area Engineer indicates no objection to the proposed development and the Stephens Street Plaza Team provided some recommendations for the applicant's consideration.

### 3.3. **Third Party Observations**

3.3.1. A submission was made by the Appellant party in which issues raised relate to claims as to a right of way over the courtyard, potential damage, height of the parapet wall, noise and nuisance from anti-social behaviour and access arrangements.

## 4.0 **Planning History**

4.1.1. According to the planning officer report there is no planning history for the application site. However, as pointed out in the appeal, the planning authority decision to grant Permission for construction of a hotel incorporating No 6 Bridge Street and its rear yard in three storeys facing onto Bridge Street with a four-storey extension to rear overlooking the river along with a pedestrian link from Stephen Street carpark in October, 1997 to the former Bective Hotel was upheld following appeal. (P.A. Reg. Ref. 4295 / PL 102854 refers.) There is also a subsequent grant of permission for change of use to office use with formation of an additional entrance and other works. (P. A. Ref. Ref. 4753 refers.)

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. The operative development plan is the *Sligo County Development Plan 2017-2023* which, as provided for under section 3.5.1., incorporates the *Sligo and Environs Development Plan, 2010-2016* pending adoption of a Local Area Plan.

5.1.2. The site is subject to the zoning objective: *C1 Town Centre uses*: To protect and upgrade the retail function, supported by a range of complementary functions within the city's commercial/retail core and to encourage establishment of commercial and retail activities in areas reserved for the centre's expansion.

- 5.1.3. According to Chapter 12, five new urban squares are planned for the city centre, and they are to be interconnected via pedestrian linkages. Stephen Square, one of the five is to be a new urban square in the area of the existing carpark and is to accommodate a range of open-air activities.
- 5.1.4. According to section 12.8 urban regeneration can be defined as redevelopment of brownfield sites involving demolition and rebuilding of existing structures, reuse and refurbishment of existing building stock or a combination of both. It can be used as a tool for creating a new character area and to re-establish or reinforce existing distinctive places and to revitalise dilapidated spaces.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. An Appeal was received from Anne Marie Scanlon on her own behalf on 16<sup>th</sup> February, 2022. She resides at No 5 Bridge Street where her accommodation at first floor level adjoins the courtyard used as a carpark by the applicant and the front elevation of her dwelling faces Bridge Street, and the rear elevation faces the courtyard.
- 6.1.2. Attached to the Appeal are several documents which include annotated photographs and location map, a copy of a Board Order relating to a grant of permission for a hotel with a pedestrian link to the Stephen Street carpark, (PL 102854 refers.) and a subsequent grant of permission for change of use to office use with formation of an additional entrance and other works. (P. A. Ref. Ref. 4753 refers) along with a copy of correspondence with John Scanlon and with Glenman Construction by Rhatigan and company and correspondence issued by Raymond Monahan, Solicitors on behalf of a former owner with Ms Scanlon.
- 6.1.3. According to the appeal:
- The applicant accesses her first-floor property from a stairwell. Part of her property is over the archway under which she stores her refuse bins and which provides access to the Building Block development.
  - The amenities of Ms Scanlon's property are affected by noise and nuisance caused by clients at the Building Block and these people should not be using

the courtyard. The extension which was permitted has caused her hardship and devaluation of her property. This extension has been built three blocks higher than that which for which permission was granted. It was not to be higher than the stone wall no parapet wall was to be included. There are agreements regarding these matters and a right of way. The enclosed documents with the appeal refer. A right of way was included in these agreements, in 1999 but the right of way has been used by Ms Scanlon since 1979.

- Ms Scanlon objects to the applicant's proposal to reduce the width of the alleyway to 1.2 metres from 2.4 metres in lieu of the existing gates and she states that her consent is required for such alterations. It is proposed to create an enclosed refuse area will give off odours and is a fire risk for her property which is overhead. The designated, secured and ventilated storage space.
- Sewer pipes serving Ms Scanlon's property and some adjoining properties are frequently blocked and access for repairs is essential. Access must be retained for works to the drains when required. There are also serious concerns as to risk of fire, the lane being the means of escape from Ms Scanlon's premises. The laneway will be unsuitable as a means of escape.
- The proposed wooden gate would be a source of noise affecting the amenities of Ms Scanlon's property overhead.
- Air conditioning units recently mounted on the Building Block's roof are at a short distance and at a different level when viewed from her rear windows and door. They give off four odour and noise that is damaging to the human ear and potentially this can cause mental health issues.
- The Building Block's opening hours from 7.00 am to 10.00 pm or later seriously affects residential amenities at Ms Scanlon's property.
- The height increase for the parapet wall, by 'circa 250 m' (sic) will reduce light to the western aspect of Ms Scanlon's property. The planning authority is permitting the building of a parapet wall on the rooftop adjacent to the rear windows and doors of Ms Scanlon's property

## 6.2. Applicant Response

6.2.1. A submission was received from the applicant's agent on 16<sup>th</sup> March, 2022 which contains a detailed account of the planning background, context and the proposed development. Attached is a copy of a Statutory Declaration made before a Commissioner of Oaths on 20<sup>th</sup> November, 1996 by John Scanlon.

6.2.2. With regard to the claims made in connection with the right of way:

- The Building Block has for several years operated at the site location at the courtyard which services it and it has operated as its service area since the beginning.
- Disputes over ownership and legal rights of way are not planning matters. Reference is made to Section 34 (13) of the Planning and Development Act, 2000 as amended (The Act) to this end. However, the courtyard is entirely in the applicant's ownership and No 5 Bridge Street which is built over the archway, (Appellant property) is specifically referred as having no Title or rights of way over the courtyard as is evident in the Statutory Declaration included with the appeal (Appendix 2 of the appeal refers.) There is no agreement between the parties regarding current or future development.

6.2.3. With regard to the claims as to impact on residential amenity: -

- Bins are stored at present in the courtyard whereas the proposed development provides for an improved, more formal arrangement for bin storage. It is for just one formal bin store under the archway which would reduce the already negligible noise impacts. There is no basis for the claims as to impacts on fire escape routes. The vast majority of waste is paper and other recyclable materials with minimal food waste involved. There have been no odour or pest issues since the applicant took over the premises in 2016. There is no basis to the claims in the appeal.
- With regard to the contentions as to anti-social behaviour and noise, the allegations in this regard in the appeal are spurious. The courtyard entrance off Bridge Street is operated by an electronic fob-controlled barrier control system with access confined to employees and the appellant party. The Courtyard is only part of the development by reason of the proposed bin store



arrangements. There is no basis for the claim that the opening hours are to be 7.00 am to 10.00 pm. The hours are more typically 9.00 am to 6.00 pm for the offices which include a coworking space and sports shop and no changes are included in the current proposal.

- The claims as to an increase in height which would affect daylight and sunlight to the western side of No 5 Bridge Street are rejected. No change in the existing parapet height is proposed for the western elevation. The proposed works are ground level only. The rear windows at the appellant property are located at first floor level and are eight to ten metres from the existing stone wall.
- Remarks with regard to matters such as air conditioning units' services maintenance in the appeal should be disregarded as irrelevant as is confirmed in the planning officer report.
- The proposal involves no additional floor space and comprises external amendments to the premises.

It is stated that the proposed development contributes to improvement of the public realm as envisioned for the Stephen Street Carpark and that is has been acknowledged by the planning authority,

### **6.3. Planning Authority Response**

A submission was received from the planning authority on 11<sup>th</sup> March, 2022 according to which: -

- There is no information with the appeal that would warrant reconsideration of the assessment and decision made by the planning authority and it is requested that the decision to grant permission be upheld.
- The development is suitable for the location is consistent with policies and provisions of the CD which incorporates the Sligo and Environs DP 2010-2016.

## 7.0 **Assessment**

8.0 The issues of concern raised in the appeal are considered below under the following subheadings.

Overshadowing and overlooking

Obstruction of access

Noise and Nuisance.

Other Considerations

Environmental impact assessment screening.

Appropriate assessment screening

### 8.1. **Overshadowing and overlooking**

8.1.1. With regard to the taking down and rebuilding of the limestone wall at the boundary with the Stephen Street carpark, it is noted that no change in height is proposed.

The existing building (to be refurbished) is at present visible from the public realm above the limestone wall. The proposed development involves no change to the heights of the walls. As no material change to the height are involved in the proposed development, it is not accepted that any material change in access to sunlight and daylight would be attributable to the proposed development.

8.1.2. It is not agreed that the proposed rearrangement of openings and replacement of doors and windows on the elevation facing into the courtyard which is at ground floor only would result in any opportunities for direct overlooking of the Appellant Party's property which is at first floor level with the external timber staircase being the only element below first floor level.

### 8.2. **Obstruction of Access.**

8.3. The use of the timber staircase for access to the courtyard from the upper floor accommodation at the rear of the appellant party's property would not be obstructed or affected by the proposed development. Similarly, it is not apparent that the use of the entrance to the courtyard for access to the rear of the Appellant's property would not be altered or obstructed by the proposed arrangements for refuse bin

storage under the arch. The proposed provision for a refuse bin store for the bins that are kept under the arch an enhancement to orderliness and amenity. These arrangements would give rise to any obstruction of access and egress of any party via the arch and gated entrance to Bridge Street.

## **9.0 Noise and Nuisance**

- 9.1.1. With regard to contentions as to anti-social behaviours and noise and nuisance associated with use of the courtyard (which includes cycle parking facilities) by occupants of the office space, it is not evident that any direct, material impact on residential amenity would be attributable to the proposed development. The proposed rearrangement of openings and replacement of doors and windows on the elevation of the single storey block facing into the courtyard area subject of the application would be immaterial in this regard.
- 9.1.2. Contentions relating to noise and nuisance from the air conditioning units mounted at upper level on the main building could be brought to the attention of the enforcement section at Sligo Council so that the planning status, can be confirmed and/or the Environmental health authorities. The appellant party's objections would not be material consideration in respect of the current proposal.

## **9.2. Other Considerations.**

- 9.2.1. The appellant has also raised issues of concern relating to drainage and maintenance, but these contentions are unrelated to any elements of the proposed development and can be excluded from consideration in connection with the determination of the application and the appeal.
- 9.2.2. With regard to dispute over rights of way it is not clearly apparent that the proposed development would lead to any direct material impacts that differ from the existing arrangements. However, as has been stated in the planning authority reports, resolution of any disputes in this respect is outside the planning remit and is a matter for the legal system.

## **9.3. Environmental Impact Assessment Screening.**

- 9.3.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, removed from any sensitive locations or

features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

**9.4. Appropriate Assessment Screening.**

9.5. Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. 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.

**10.0 Recommendation**

10.1. In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld based on the Reasons and Considerations and subject to the conditions which follow.

**11.0 Reasons and Considerations**

11.1.1. Having regard to the *Sligo County Development Plan 2017-2023* which incorporates the *Sligo and Environs Development Plan, 2010-2016* pending adoption of a Local Area Plan and according to which the site location is in an area subject to the zoning objective: *C1 Town Centre uses*, it is considered that the proposed development would be consistent with the achievement of this development objective, would not seriously injure the residential amenities of adjoining properties, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

**12.0 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.

3. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with, "*Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects*", published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

4. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

5. Water supply and drainage arrangements, including the attenuation and 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.

**Jane Dennehy**  
Senior Planning Inspector  
27<sup>th</sup> June 2022.