



An  
Bord  
Pleanála

## Inspector's Report ABP 312920-22.

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<b>Development</b>	Change of use to apart hotel from residential apartments, along with internal alterations providing for a reception area at ground level, minor alterations to create staff storage space and associated works.
<b>Location</b>	City Point Apartments, 24 Prospect Hill, Galway
<b>Planning Authority</b>	Galway City Council
<b>P. A. Reg. Ref.</b>	21/395
<b>Applicant</b>	Cornacloy Property Holdings Ltd.
<b>Type of Application</b>	Permission
<b>Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party X Refusal
<b>Appellant</b>	Cornacloy Property Holdings Ltd.
<b>Observer</b>	David Coen, Bridge Developments
<b>Date of Site Inspection</b>	5 <sup>th</sup> July, 2022
<b>Inspector</b>	Jane Dennehy

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## 1.0 Site Location and Description

- 1.1. The application site is that of a building known as Citypoint located on the north west side of Prospect Hill and Eyre Square, south west side of Bothar na mBan and south east of Bothar Irwin. It is a flat roofed building and is circa forty metres in height. Bothar Irwin rises from the north west at St Brendan's Avenue towards the stie and Prospect Hill falls from the north east towards the site. There are apartment buildings with some retail units at ground floor level which include Lydon Court and Hibernian Court on the Bothar Irwin frontage and on its opposite side of which is the Corrib Shopping Centre. The County Council Offices are located on the north east side of Bothar na Mban on a corner site with Prospect Hill.
- 1.2. There are seventeen apartments, (subject of the current application) on the second, third and fourth floors of the building. The ground and first floors of the building are in retail use and there is basement level on-site parking in which individual spaces are allocated to the apartments. The entrance to the apartments which is fob controlled is off Bothar na mBan.
- 1.3. There is a concurrent application before the Board on appeal against the planning authority's decision to refuse permission for installation of seven antennas and two transmission dishes on supporting poles including remote radio units (RRUs) ballast frames and associated equipment cabinet, cabling and site works at roof level together with ancillary equipment and associated site works. (P. A. Reg. Ref.21/363/ ABP 312615 refers.)

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:

Change of use of the residential apartments to use as an apart hotel in which the seventeen apartments are to be used as self-catering suites. The seventeen apartments comprise six one bed units, ten two bed units and one three bed unit and the total stated floor area involved over the third, fourth and fifth floors is 1,629 square metres. It is intended that the seventeen parking spaces and bin storage at basement levels allocated to the apartments would serve the apart hotel and its staff.

Internal alterations in the building are also proposed to provide, at ground floor level, a reception area, access and a staff storage room and all associated site works.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By order dated, 4<sup>th</sup> February, 2022, the planning authority decided to refuse permission based on the following reasons:

Reason One.

*“The proposal to reassign 17 no residential units/apartments from a residential development consented for use in the long term private rental market/property market which are located within a rent pressure zone to use for short term tourist letting is considered unacceptable and would be contrary to the housing strategy, the housing policy and neighbourhood concept as outlined in the Galway City Development Plan, 2017-2023 and therefore contrary to the proper planning and sustainable development of the area.”*

Reason Two.

*“If granted, the “apart-hotel” when operational, would essentially function as a commercial entity that provides apartments on short term rental basis, which would reduce the supply and availability of long term accommodation in the city where demand is high, confirmed by the national classification as an area under rental pressure and would therefore be contrary to national sustainable housing policies, principles and practices as provided for in Circular PL 4/2019 and would militate against achieving the national strategic outcomes as promoted in National Policy Objective NP04 and NP06 of the National Planning Framework. The proposed development is therefore contrary to the proper planning and sustainable development of the area.”*

### **3.2. Planning Authority Report**

- 3.2.1. The planning officer in his report acknowledges a former hotel use on the site but does regard it is a consideration that would favour the proposal. He defined the proposed change of use as representative of short-term letting accommodation provided on a commercial basis and the planning history whereby the residential element is intended as integral to the mixed-use development.
- 3.2.2. He notes the location within a Rent Pressure Zone and considers the proposal contrary to national policy to reverse the undersupply of long-term rental accommodation as set in Circular PL 4/2019, and the reforms provided for under the Residential Tenancies (amendment) Act, 2019 the shortage and the Planning and Development Act, 2000, (Exempted Development (No 2) Regulations, 2019 to this end. The planning officer also, with regard to shortage of supply of long-term residential accommodation refers to the policies within section 2.2. of the CDP seeking to protect and encourage residential development and to sustain existing residential neighbourhood communities in the city centre.

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

- 3.3.1. An objection was lodged by the David of Bridge Developments in which it is stated that the subject apartments are at present in use as short term rental accommodation. Reference is also made to advertising for short term rental and details of a website are provided in the planning officer report.

## **4.0 Planning History**

Permission was granted for demolition of a hotel building on the site and for construction of a mixed use, (commercial, hotel and residential) six storey building under P. A. Reg. Ref 05/944.

Under P. A. Reg. Ref 8/43 permission was refused for eight additional residential units, alterations to the shopping mall and modifications to three approved apartments along with a reduction in and minor alterations to the basement layout.

Under P. A. Reg. Ref. 10/343, Permission was granted for retention of revisions to the apartments as a result of which the number of units was increased from sixteen (as per the original grant of permission) to seventeen units.

In addition, further to the original grant of permission under P. A. Reg. Ref. 05/944 there have been several subsequent grants of permission for modifications and changes to layout and uses under P. A. Reg. Refs: 06/1032. 07/515. 07/516,08/714 10/342, 17/62 and 18/131. A detailed account of the planning history is included in the planning officer report.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The operative development plan is the Galway City Development Plan, 2017-2023. The site location is within an area subject to the zoning objective; CC To provide for city centre activities, and particularly those which preserve the city centre as the dominant commercial area for the city. The location adjoins the area within the Eyre Square Architectural Conservation Area. (ACA)
- 5.1.2. The surrounding area is primarily subject to the “R” (residential) zoning objective which provides for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods’ and as provided for under section 2.5 of the CDP.

### **5.2. Regulation of Short-Term Letting - New Rent Pressure Zone (RPZ)**

#### **Designations. Circular 04/19 -**

- Section 38 of The Residential Tenancies (Amendment) Act, 2019, No 14 of 2019 provides for designation of RPZs and it is supplemented by the amendment to the Planning and Development Act, 2000, as amended by way of insertion of section 3A. It includes a description of “Short Term Lettings” and provision is made for the making of Regulations by the Minister for the purposes of section 3A. thereof.
- The Planning and Development Act, 2000 (Exempted Development) (No 2) Regulations, 2019. (SI No 235 of 2019.) were brought into effect on 1<sup>st</sup> July,

2019. Within designated RPZs, planning permission is required for “short-term letting” which is precluded from exempt development. However, short-term letting within the owner/occupier’s principal place of residence in RPZs is exempt development and excluded from a requirement for planning permission subject to certain limitations and conditions.

- Circular Letter No. PL 4 /2019: (Department of Housing, Planning and Local Government.) provides for an advisory note of the legislative reforms on regulation of short-term letting.

## **6.0 The Appeal.**

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

6.1.1. An appeal was received from the applicant’s agent on 3<sup>rd</sup> March, 2022.

With regard to Reason No 1 it is submitted that:

- While it is agreed that long term residential use is appropriate to the city centre, apart hotel/tourism related use is also appropriate to the CC zoning and associated policy objectives for tourism and for the city centre which is a major tourist hub for Galway and the Wild Atlantic Way. It is pointed out that Tourism is a major economic activity and makes a major contribution to the local economy. The appeal includes references to and an extract from Section 5.1 of the CDP on Enterprise.
- With regard to Section 2.4, Table 2.1 and Figure 11.34 of the CDP regarding policies for encouragement of the neighbourhood concept in the CDP it is submitted that the City Core is commercial with the City-point building being within the core business district. No other residential development is in the area so it is not in any residential neighbourhood and therefore the proposal is not contrary to section 2.4 of the CDP.
- It is intended that the proposed development be linked to a local hotel rather than being operated as private commercial short-term letting apartments which drives up central city rents. The arrangement is similar to that operated

by the Old Connaught Hotel and apart hotel on the Dublin Road and it relates to the tourism related policies in Policy Objective 5.1 of the CDP.

6.1.2. With regard to Reason No 2 it is submitted that:

- It is acknowledged that the site location is within a Rent Pressure Zone but notwithstanding Circular PL4/19 the proposed apart hotel development which is related to tourism is a more appropriate use for the core location in a non-residential area and with national, regional and local policy.
- With regard to the National Planning Framework, it is contrary to Policy Objective NPO 4 and NPO 6 but as it is high quality development in the city centre these policies would support the proposal along with NPO 5 and NPO 11.
- With regard to the RSES, the proposal accords with its aims to significantly increase overseas visitors to the region and promote and support tourism in the metropolitan area (of Galway as a gateway) in which there is huge potential for tourism development and increase bed-nights.
- With regard to the CDP the proposed development accords with the zoning objective CC as it is a tourism related use. It will contribute to achieving, Policy Objective 10.2 for the city centre's enhancement and reinforcement as dominant in its role for commerce, shopping tourism culture and leisure activities and the vitality of the centre as a place to work, live and visit.

## 6.2. Planning Authority Response

6.2.1. A submission was received from the planning authority on 28<sup>th</sup> March, 2022 according to which there is no information, reasoning or justification within the appeal. It is requested that the planning authority decision to refuse permission be upheld.

6.2.2. According to the submission:

- The appellant states that the units subject of the application have never been in on the market as long term residential units. This may represent unauthorised development in that the grant of permission in 2010 under P.A.

Reg. Ref. 10/342. was for apartments for long term residential use. The current application does include any proposals for permission for retention.

- Contrary to the assertion that the location is not a residential area, the City Core, (CC zoned land) as a neighbourhood area. A number of areas are identified in Table 2.1 as indicative neighbourhood area which include Woodquay, Long Walk and the Henry Street Area.
- Similar policy for promotion of creation of new neighbourhood areas in the city core were included in prior development plans and this policy was a consideration in respect of the grant of permission under P. A. Reg. Ref. 10/343 for seventeen apartments.
- The assertion that these apartments were never on the market as long term units is contrary to the policy for creation of new neighbourhoods in the city centre.
- There are numerous residential areas close to the site: St Brendan's Avenue, Woodquay, St Bridget's Terrae/Place, Bohermore, Forster Court and Eyre Square above the shopping centre as well as the large quantum of commercial development in the area.

### 6.3. Observations

A submission was lodged by David Coen of Bridge Developments on his own behalf on 28<sup>th</sup> March, 2022 in which it is stated that the proposed development is contrary to planning law and that the application should be for permission for retention because the apartments area in holiday accommodation use.

## 7.0 Assessment

- 7.1. There is no dispute that the proposed development is a material change of use within the meaning of the amended legislative framework on short term letting accommodation as represented in Section 38 of The Residential Tenancies (Amendment) Act, 2019, No 14 of 2019, which is supplemented by the amendment

to the Planning and Development Act, 2000, as amended, by way of insertion of section 3A in which there is a description of “Short Term Lettings”.<sup>1</sup>

- 7.2. The case made in the appeal as to the need for careful consideration and recognition, having regard to relevant national, regional and local policies and objectives, of the contribution of short-term letting connection with business and leisure and, the pivotal role of tourism within the historic core of a city such as Galway is acknowledged and appreciated. It is reasonable that within the identified “rent pressure zones” (RPZ) that applications for change of use of housing stock from permanent or long-term residential use to accommodation for short-term letting should not necessarily be subject to an outright blanket ban.
- 7.3. However, it should be borne in mind that national policy and the amended legislative framework clearly indicates a presumption of prioritisation for the achievement of reversal of the decline in supply of rental properties in use as permanent residential accommodation, within the identified RPZs among the range of very creditable and worthy competing interests contributing to sustainable economic viability and vitality within the central city.
- 7.4. The seventeen apartments subject of the application are authorised for permanent, long term residential use having regard to the planning history for the site. The remarks in the third-party observation and in the submission of the planning authority as to possible unauthorised use for short-term letting, while noted, is an enforcement matter within the remit of the planning authority.
- 7.5. The City Centre area in the immediate environs of the site location has an extensive range of short-term rental accommodation, which includes a wide range of hotel accommodation including budget hotel accommodation and hostel accommodation which is very much clustered around the Eyre Square area. This commercial accommodation and which has increased in supply considerably over the past twenty years and it is supplemented by guest house and bed and breakfast accommodation within the wider environs of the city centre.
- 7.6. As regards residential development there is apartment development on Bothar Irwan adjacent to City Point and opposite The Corrib Shopping Centre. The City centre

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<sup>1</sup>, The Planning and Development Act, 2000 (Exempted Development) (No 2) Regulations, 2019. (SI No 235 of 2019.) which were brought into effect on 1<sup>st</sup> July, 2019 refer.)

areas to the north west and north east, for example at St Brendan's Avenue, Wood Quay and Prospect Hill and adjoining streets and slightly further afield at Court Square and in Bohermore area comprise houses in long term residential use. As such the rejection in appeal as to the lack of long-term residential accommodation and use within the City centre area, and as to irrelevance or inapplicability of the policies and objectives for protection and enhancement of city centre residential neighbourhoods, communities and encouragement of expansion of city centre residential communities as provided for in the CDP and in particular, section 2.8 is not accepted.

- 7.7. The change of use if authorised would result in a mixed-use development with no long-term residential element which would be in conflict with the CDP having regard to Policy 2.8 for encouragement of the expansion of the city centre residential community and requirements for residential elements to be included in new development proposals. Indeed, a grant of permission would represent a major departure by the planning authority from its prior established position having regard to the planning history. Not only would this be the case, but the proposal would be in direct conflict with these strategic policies within the CDP and in conflict with effective reversal of the decline in permanent housing supply within the 'RPZs with national policy as reflected within the relevant amended legislative framework provided for in the Planning and Development Act, 2000 (Exempted Development) (No 2) Regulations, 2019.- (SI No 235 of 2019.) on 1<sup>st</sup> July, 2019. In considering the proposal on its own merits as opposed to seeking to apply a blanket ban on short-term letting in the RPZ there clearly are no grounds on which the proposed change of use might warrant favourable consideration.

### **Environmental Impact Assessment Screening**

- 7.8. Having regard to the nature of the proposed development and its location in a serviced urban area 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.

### **Appropriate Assessment Screening.**

- 7.9. 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.

## **8.0 Recommendation**

In view of the foregoing, it is recommended that the planning authority decision be upheld and that the appeal be rejected based on the reasons and considerations which follow:

## **9.0 Reasons and Considerations**

The proposed change of use whereby the units would be used for short term letting by itself, or, the precedent it would set would result in the seventeen apartments being excluded from the supply of long-term rental residential accommodation available for permanent occupation within the City Centre of Galway, a designated “Rent Pressure Zone” provided for in the Planning and Development Act, 2000 (Exempted Development) (No 2) Regulations, 2019, It would exacerbate the existing shortage in supply and availability residential accommodation in the rental market for permanent occupation, would be contrary to the housing policy and neighbourhood concept provided for in the Galway City Development Plan, 2017-2023 to secure national policy and legislation in meeting the housing needs of the City, to ensure a speedy effective and sustainable step up in future housing supply reversing the scale of unmet housing needs including residential accommodation in the rental market for permanent occupation and which seeks encouragement of permanent residential communities in mixed use sustainable neighbourhoods. The proposed development would be to the proper planning and sustainable development of the area.

**Jane Dennehy**  
Senior Planning Inspector  
19<sup>th</sup> July, 2022.