



An
Bord
Pleanála

Inspector's Report ABP 313500-22.

Development	Retention of a porch lobby entrance at rear.
Location	No 202 Upper Salthill Road, Galway.
Planning Authority	Galway City Council.
P. A. Reg. Ref.	22/32.
Applicant	Colm O'Donnell
Type of Application	Permission for retention
Decision	Grant Permission for retention.
Type of Appeal	First Party X refusal
Appellant	Colm O'Donnell
Date of Site Inspection	12 th September, 2022
Inspector	Jane Dennehy.

Contents.

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Planning Authority Response	6
7.0 Assessment.....	6
8.0 Recommendation.....	8
9.0 Reasons and Considerations.....	8
10.0 Conditions.	9

1.0 Site Location and Description

- 1.1. The application site is that of a three-storey building located on the north-west side of Upper Salthill Road with frontage and a main entrance beneath a canopy directly onto the public footpath adjacent to a bus stop. The rear of the building adjoins a carpark which has access off Lenaboy Gardens to the northeast side.
- 1.2. The area is characterised by a mixture of commercial, retail and residential developments in apartments, with reliance on balconies and terraces for external private open space provision and houses mainly along Lenaboy Gardens and Monksfied.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicate proposals for permission for retention of a porch lobby entrance which is at the rear of the building and which has a stated floor area of 8.2 square metres. The purpose indicated for the proposed entrance is to provide for improved access which will bring about compliance with Part M of the Building Regulations, 2001. It is also to ensure access for the mobility impaired direct from a designated level access carpark, is in accordance with the Equality Act, 2019. It is also stated that the entrance is necessary to ensure a satisfactory provision for emergency escape in accordance with the Fire Certificate for the premises.

3.0 Planning Authority Decision

3.1. Decision

By order dated 8th April 2022 the planning authority decided to refuse permission based on the following reason:

“The porch/lobby entrance is located directly adjacent to established residential apartment units, their associated balconies and communal open space, and if permitted, the retention of the development would be injurious to the residential amenities of adjacent residential units; deprecate the value of those properties by way of overlooking, noise, nuisance and adverse impact

on adjacent private communal open spaces and residences due to the level of customer throughout through the entrance and would undermine their residential character and amenities of the neighbourhood, contrary to the zoning objective of the Galway City Development Plan, 2017-2023 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. According to the planning officer report the lobby's location adjacent to apartments is unacceptable and it was considered that there is scope for alternative locations for the entrance lobby, subject to some alteration to the internal layout. He indicated concern that although the entrance is intended for use by the mobility impaired, other customers would use the entrance for access to the casino from the carpark.
- 3.2.2. Refusal of permission was recommended on grounds similar to the reasoning for refusal of permission under P A. Reg. Ref 21/20 for an air-conditioning unit and lobby area which were to be at an elevated location adjacent to apartment units and their external balconies and communal external space due to: -
- noise and nuisance caused by the level of customers using the lobby,
 - by noise the AC units and,
 - visual obtrusiveness resulting in serious injury to residential amenities and depreciation of property value.

3.3. Third Party Observations

- 3.3.1. Three parties lodged objections based on concerns about noise and nuisance and congregating by patrons at the porch location with scope for overlooking of balconies at the residential units on the adjoining apartment development.

4.0 Planning History

- 4.1. As indicated in section 3.2.1 above, there is a prior refusal of permission for a relatively similar proposal for air-conditioning units and a lobby area (for use by all patrons) for under P A. Reg. Ref 21/20. Subsequently under P. A. Reg. Ref.

21/247, permission was granted for removal of A/C units from the south-west elevation and installation of a roof top plant accommodating seven A/C units.

4.2. The application site has a prior planning history relating to minor development proposals dating back to 1998. P. A. Reg. Refs. 98/422, 01/194, 12/72. 13/215 refer.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative development plan is the Galway City Development Plan, 2017-2023 according to which the site is within a location subject to the zoning objective, C1 *To provide for enterprise, light industry, and commercial uses other than those reserved to the CC zone.*

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged by MKO Planning and Environmental on behalf of the applicant on 5th May, 2022 and it includes an acoustic assessment report which was also provided with the application submission. It is stated that the casino business at the premises has been in operation for over fifty years. According to the appeal and acoustic report:

- The purpose for the application is to improve independent means of approach (from a small carpark) to the entrances and circulation through and in a building for the mobility impaired in accordance with the objectives under Section 1.1.1 of Part M of the Building Regulations 2000: *Technical Guidance Document*. (TGD) This new entrance which will also function as a fire exit, services and staff entrance as well as facilitating access and egress for the mobility impaired benefitting their wellbeing and recreational and social life.
- It is demonstrated in the Acoustic assessment report that the design follows good acoustic principles that with noise containment and ensure protection of residential amenities. The entrance will operate quietly.

- It is claimed that the decision to refuse permission is unjust, that the existing uses at Ceasar's Palace should be taken into consideration. It is requested that permission for retention be granted.
- Congregating outside at the porch and in the lobby will be controlled by staff assisted by CCTV cameras and smoking will be prohibited. There is an existing covered smoking area in place. It will also operate as a services
- The proposed entrance will not contribute to additional congregation by patrons. The main entrance is to remain at the front of the building.
- The accompanying acoustic assessment report is based on desk study and includes an acoustic management plan and noise management strategy Details are provided for noise control which includes automatic noise detection sensors overhead which result in the lobby functioning as an acoustic lobby which is a means of noise containment. The noise control measures will benefit residential amenities at adjoining properties.

6.2. Planning Authority Response

There is no submission on file from the planning authority.

7.0 Assessment

- 7.1. Given the mixed-use nature of development in the immediate vicinity in Salthill area and the 'C' zoning objective for the area, it would be unreasonable for there to be an expectation of a level of protection of residential amenity similar to that which would be anticipated within a residential area zoned solely for residential development. As such a reasonable balance in providing for the interest of the different land uses should be achieved which ideally allows for developments to operate side by side without undue adverse impacts and in accordance with the interests of proper planning and sustainable development. Salthill Road Upper is characterised by a night-time economy of entertainment, restaurants and bars and the casino as main elements in the range of commercial uses interspersed with residential development and residential development predominantly but not exclusively along the adjoining roads and streets.

- 7.2. The proposed porch and lobby entrance is a subsidiary, rear entrance for Caesar's Palace off a small carpark which the applicant contends, if permitted, allows for the applicant to achieve compliance with Part M standards provided for in the Technical Guidance Document (TGD) accompanying the current Building Regulations and provision for universal access. The applicant's case in this regard in conjunction with its function as a route of fire escape involving use of the entrance and servicing is reasonable. It is considered that it has been satisfactorily demonstrated that members of the public attending the casino use and will continue to use the front main entrance off the street on Salthill Road Upper with use of the entrance from the carpark, subject of the current proposal being confined to use by mobility impaired, providing for Part M compliance, as a route for fire escape and servicing.
- 7.3. The compatibility of the proposed porch and lobby entrance with that of protection of amenities of adjacent residential developments is substantively dependent on effective management of the use of the entrance so that it is operated as proposed. If these arrangements are satisfactorily implemented and operated, it is considered that a reasonable balance vis a vis potential for adverse impact on the residential amenities of apartments in the vicinity is achievable. Furthermore, it should be borne in mind that due to absence of signage or indeed visibility from the street, casual use of the entrance by members of the public for whom use is not intended would be minimal.
- 7.4. While an acoustic report has been provided in connection with the application and the appeal, it is considered, that clarity as to adequacy of the mitigation measures can be ensured through attachment of an appropriate condition with specified requirements for measures noise mitigation in design and management with a compliance submission being required.
- 7.5. It is considered that would be reasonable for the retention of the development to be permitted for a three-year period. As such there is an opportunity for further planning review with scope for the entrance and its use to be discontinued if it is determined following further assessment that it is an unacceptable on planning grounds.

7.6. **Environmental Impact Assessment Screening.**

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.

7.7. **Appropriate Assessment.**

Having regard to the planning history for the site, the zoning objective, the location of the site is on serviced land, and, to the nature and scale of the proposed development, 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 that the planning authority decision be overturned, and that permission for retention be granted based on the reasons and considerations and subject to the conditions below.

9.0 **Reasons and Considerations**

Having regard to the planning history, the Galway City Development Plan, 2017-2023 according to which the zoning objective is : *To provide for enterprise, light industry an commercial uses other than those reserved to the CC zone*, to the established pattern and mixed use nature of development within the Upper Salthill Road area, the location and the design of the proposed porch and lobby entrance at the rear of the building off the small carpark and intended use for mobility impaired, as a means of fire escape and for servicing the building, it is considered that subject to compliance with the conditions set out below, the proposed development is not seriously injurious to the amenities of the residential properties in the vicinity properties by reason of intensity of use, noise and nuisances associated with congregating outside by patrons and anti-social behaviour and, would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions.

1. The development shall be in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged with An Bord Pleanala on 5th May, 2022 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.

2. The grant of permission for retention shall cease on or before three years of the date of this order unless, a prior grant of permission has been obtained from planning authority or following appeal from An Bord Pleanala.

Reason: To allow for further planning review, in the interests of residential amenity and the interests of the proper planning and sustainable development of the area.

3. The entrance shall be used solely as an access for services and fire exit and for access and egress by patrons who are mobility impaired. All other public access shall be via the main entrance off Upper Salthill Road. No directional signage or signs and advertising shall be erected.

4. **Reason.** In the interest of clarity and the protection of visual and residential amenity.

5. Within three months of the date of this order the applicant shall submit and agree in writing with the planning authority full design specification details for

the entrance doors to include mechanisms for noise insulation, self-closure ventilation for the lobby and noise control.

Reason: In the interest of clarity and the protection of residential amenity.

Jane Dennehy
Senior Planning Inspector
15th September, 2022.