



An
Bord
Pleanála

Inspector's Report

ABP-313965-22

Development	S254 licence to place tables and chairs on public pavement.
Location	Lofty's Bar, North Mall, Westport, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	02822
Applicant(s)	Lofty's Bar.
Type of Application	Permission.
Planning Authority Decision	Grant Licence with conditions
Type of Appeal	Third Party
Appellant(s)	William Reidy.
Observer(s)	None.
Date of Site Inspection	7 th February 2023.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to an area of public pavement to the front of Lofty's Bar public house at North Mall in Westport Co Mayo. Lofty's bar is located at the junction of North Mall and Casltebar Street N5. North Mall is located within the Westport Architectural Conservation Area and the adjoining building on North Mall Ulster Bank is a protected structure ref 029. I note that on the date of my site visit, there were two wooden barrels on the pavement to the front of the public house.
- 1.2. Lofty's public house occupies the ground floor of the corner building with restaurant use overhead. The site is in a vibrant mixed use area on the north mall overlooking the canalised Westport or Carowbeg River with a number of retail and commercial premises as well as well-established residential uses.

2.0 Proposed Development

- 2.1. The application refers to the placement of tables and chairs on the paved area to the front of Lofty's bar. I note that the application was not accompanied by any plans outlining specific details of the proposed street furniture. Photographs submitted by the applicant show an area enclosed by a timber screen with benches and wooden barrel type tables. Signage attached refers to Live Music. Proposed hours of operation from 12:00-21:00 and the application refers to the period from April to October 2022.

3.0 Planning Authority Decision

3.1. Decision

Mayo County Council decided to grant the Section 254 license on 10th June 2022 subject to a number of conditions including the following:

“The area allocated and design must leave at least 2 metres of footpath and ensure that wheelchairs can circulate as they require in the vicinity.

The exact location and shape of the licensed area must be agreed in writing with the MD Architect.

All furniture used outdoors shall be attractive of the same type, style and colour to ensure visual consistency. The tables, chairs, screens / windbreakers and other furniture must be of a robust and stable construction to prevent movement in adverse weather conditions.

The existing screen shall be revised subject to the MD architects written agreement. The screen shall incorporate planting that is durable and vandalproof.

No sandwich or advertising boards shall be displayed either in or around the licensed area.

Disposable cups, plates, cutlery etc. must not be used.

This license includes for the awning installed on the building. No additional parasols or gazebos shall be used in this location.

Any music played must be at a sound level considerate to residents in the vicinity in all cases sound must not exceed 75 decibels and confined to the hours of this license.

All screens, furniture etc, shall be removed entirely on or before the 1st of November 2022.

Any claims arising against the local authority from noncompliance with your license will be pursued against you by Mayo County Council.”

Hours of operation 12pm-9pm.

Expiry 31/12/2022.

3.2. Planning Authority Reports

3.2.1. Planning Reports

None

3.2.2. Other Technical Reports

No submissions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None on file.

4.0 **Planning History**

No recent applications.

5.0 **Policy Context**

5.1. **Development Plan**

The Mayo County Development Plan 2022-2028 and Westport Town and Environs Development Plan 2010-2016 refer.

The site is located within the Town Centre Zoning Objective.

TO-09 It is an objective of the Council to encourage residential uses on the upper floors of town centre commercial properties, where appropriate, and to encourage the retention of residential use along the North Mall and South Mall except where an alternative use has been established, to maintain and enhance the overall vitality of the town centre area.

TO-15 I It is an objective of the Council to continue to improve street furniture, paving and planting etc. throughout the town.

The site is within the Architectural Conservation Area and the adjoining building on north mall Ulster Bank is a protected structure reference 029.

The Carrowbeg River is designated as a linear corridor which links biodiversity areas in the town.

Within the Mayo County Development Plan 2022-2028 I note placemaking policy BEP 23 "*To encourage and facilitate improvements to the physical fabric and*

environment of town and village centres, including streetscape, street furniture, landscaping (hard and soft), signage and wirescape, while recognising that both private and public developments can contribute to effective public realm.”

5.2. Natural Heritage Designations

The site is not within a designated area.

5.3. EIA Screening

The proposed development is not of a class for the purposes of EIA. Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is submitted by Mr William Reidy, South Mall, Westport. Grounds of appeal are summarised as follows:

- Location is completely unsuitable owing to the proximity to neighbouring residential properties.
- Noise disturbance from laughter, loud conversation and singing cause disturbance and nuisance impacting on the quiet and peaceful enjoyment of homes.
- Location and hoarding on the corner of a busy street, adjacent to a pedestrian crossing has the potential to impede mobility impaired pedestrians.
- Hoarding interferes with sightlines for oncoming traffic and gives rise to traffic hazard.
- Use for outdoor live amplified concerts for the entertainment of patrons is an abuse of the S254 consent.

6.2. Applicant Response

The response on behalf of the applicant is summarised as follows.

- Music played outside Lofty's bar is weather dependant and is generally just one man and a guitar plugged into an amp as playing unplugged is not viable due to traffic noise.
- Sound levels are monitored and rarely peak above 75Db and is generally a consistent 65-75 which is below the level of a passing motorcycle.
- All music is finished around 7.30pm.
- Other neighbours closer than the appellant have no issue with noise levels.

6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

7.1 I note that within the licence application (response to Question 6) the applicant proposes a time period for the licence of April to October 2022. The license as granted by Mayo County Council expired on 31/12/2022. As both time periods has now expired the determination by the Board of the licence application is somewhat abstract.

7.2 As regards the particulars of the proposal, I note that the application does not include any specific plans - site layout or scaled drawings of proposed tables and chairs to be licenced or other information detailing the position, design and capacity of the proposed seating area. (As confirmed in email from Mayo County Council received on 27th February 2023). I further note that the conditions imposed by Mayo County Council are vague in regard to the exact nature of furniture to be placed. "*The exact location and shape of the licensed area must be agreed in writing with the MD Architect..... The existing screen shall be revised subject to the MD architects written agreement.*"

- 7.3 The submissions by the applicant to the Board show photographs of an area enclosed by a timber screen with benches and wooden barrel type tables. Signage visible on the photographs attached to the timber screen refer to “live music”. On the date of my site visit 7th February 2023, I noted that the screened seating area was removed and only two barrels remained in the paved area immediately forward of the building.
- 7.4 I note the provisions of Section 254 of the Planning and Development Act, 2000, which relates to licensing of appliances and cables etc., on public roads. Subsection 5 states that in consideration of an application for licence under 254 a planning authority, or Board on appeal, shall have regard to the following:
- a) The proper planning and sustainable development of the area,
 - b) Any relevant provisions of the development plan, or local area plan,
 - c) The number and location of existing appliances, apparatuses, or structures, on under, over or along the public road, and
 - d) The convenience and safety of road uses including pedestrians.
- 7.5 Having regard to the town centre location of the site, the commercial uses and zoning objectives of the Development Plan, the policy context would generally be support of proposals to bring greater vibrancy and vitality to the street by way of creation of an outdoor seating area which has the potential to positively contribute to the attractiveness and amenities of the area. Such facilities should however only be supported where there is no significant interference with residential amenity, pedestrian movement and having regard to the considerations of visual impact, impact on architectural heritage and impact on the amenities of the area. I note in terms of generalities that having regard to the location and context of the site, the main considerations for assessment in this case would relate to the size and location, concentration of existing street furniture in the area, visual impact and impact on the character of the streetscape the Architectural Conservation Area and adjacent protected structure and the effects on the amenities of adjoining and adjacent premises and impact on access and visibility.

7.6 I note that in the absence of specific details with regard to the nature of the proposed area of pavement involved and the furniture or structures to be licensed, it is not possible to determine the license application in accordance with Section 254 of the Planning and Development Act 2000. On this basis I consider that the Board is precluded from determining the license application and appeal.

8.0 Recommendation

It is recommended that Board should make a determination as follows:

Reasons and Considerations

Having regard to the dearth of specific detail with regard to the placement of tables and chairs proposed to the front of Lofty's Bar, North Mall, Westport specifically the absence of detailed plans and other information concerning the position, design and capacity of the appliance, apparatus or structure proposed, the Board is precluded from determining the appeal in accordance with Section 254 of the Planning and Development Act 2000, as amended.

Bríd Maxwell
Planning Inspector

07th March 2023