



An
Bord
Pleanála

Inspector's Report ABP-318308-23

Development	Change of use of ground floor office unit to pharmacy.
Location	Unit 1, Harris House, IDA Small Business Centre, Tuam Road, Galway, H91 RK5Y.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	2360041
Applicant(s)	Brian Higgins
Type of Application	Permission – Change of Use
Planning Authority Decision	Refuse Permission
Type of Appeal	First
Appellant(s)	Brian Higgins
Observer(s)	None
Date of Site Inspection	6/03/24
Inspector	Darragh Ryan

1.0 Site Location and Description

- 1.1.1. The site is located at Unit 1, Harris House, IDA Small Business Centre Tuam Road Galway. There is an existing three storey building on site which comprises of office use. There is parking to the front of the building.
- 1.1.2. The Galway Primary Care Centre is located 25m from the site. The owner of primary care centre is the same as the applicant in this case.
- 1.1.3. To the north of the site is Fleming Business Park where there are petrol pumps, local shop and car sales. To the south of the site is Crown Square Development which is currently under construction. This shall comprise of 288 no apartments, neighbourhood facility, a 175 bed hotel and over 5000sqft of office space. Mervue Business Park is located to the west of the site.

2.0 Proposed Development

Change of use of ground floor office unit to pharmacy unit and erection of signage and Pharmacy cross at Unit 1, Harris House. The change of use is for a total area of 110m².

3.0 Planning Authority Decision

The planning authority issued a decision to refuse permission for the following reason:

It is considered the proposed pharmacy retail unit by reason of its retail type and scale, would be contrary to the CI zoning objective, Section 11.2.6 Commercial/ Industrial CI Land Use Zoning Objective of the City Development Plan 2023 – 2029, to provide for enterprise, light industry and commercial uses other than those reserved to the CC zone, which states that only “retail of a type and of a scale appropriate to the function and character of the area” is a use which is compatible with and contributes to the zoning objective. The proposed development would be contrary to this land use zoning objective for this area and the policies of City Development Plan 2023- 2029, as detailed under Section 1.7 Retail Strategy and Part 2 Retail Strategy of Chapter 6 Economy, Enterprise and Retail which seeks to protect and reinforce the strategic role of the city centre as the primary retail area

and provide for an appropriate range and scale of retail services throughout the city in accordance with the retail Hierarchy for the city and would therefore be contrary to the proper planning and sustainable development of the area.

3.1.Planning Authority Reports

The planning authority report reflects the reason for refusal.

- The site is located in lands zoned CI for enterprise, light industry and commercial. Section 11.2.6 limits the type of uses permitted, in that retail is only permitted where it's of a type and scale appropriate to the function and character of the area. The function and character of the area is that of a business park.
- Bulky goods retailing and local retailing needs will be only retail types considered on CI zoned lands not provided for in the retail Hierarchy.
- The proposal is not within a location identified in the Retail Hierarchy for retail development, see Section 6.5 Retail Hierarchy of the CDP. It is not a designated district or neighbourhood centre under the Retail Strategy and Core Strategy of the Plan, see Section 1.7 Retail Strategy and Part 2 Retail Strategy of Chapter 6 Economy, Enterprise, and Retail nor a local centre serving a residential neighbourhood identified under Chapter 3 Housing and Sustainable Neighbourhoods. In view of its type and scale, the proposed independent pharmacy retail unit would be contrary to the CI land use zoning objective and would not be defined as "retail of a type and of a scale appropriate to the function and character of the area".
- In line with Table 11.6 of the City Development Plan the proposal would require 6 car parking spaces
- In principle proposed signage is acceptable

3.1.1. Other Technical Reports

None

3.1.2. Prescribed Bodies

Environmental Health Service Galway – no observations

3.2. Third Party Observations

None

4.0 Planning History

Existing Site

- PA ref no 02/93 - Permission granted AUGUST 2002 for the construction of a new three storey building (1194 sq. m.) for use as including light industrial-processing-information technology-commercial, laboratories-research and development-media-recording-telemarketing and publishing and associated carparking and external works
- PA ref no 05/529 - Permission granted NOVEMBER 2005 for change of use of existing 3-storey industrial office building to general office use; and construction of an additional floor on top of existing building for general office use; parking layout as constructed.
- PA ref no 23/21 - Permission refused MARCH 2023 for development which consists of change of use of ground floor office unit to pharmacy for the following reason:

It is considered the proposed pharmacy retail unit, by reason of its retail type and scale, would be contrary to the CI zoning objective, Section 11.2.6 Commercial/Industrial CI Land Use Zoning Objective of the City Development Plan 2023-2029,

To the north

- PA ref no 17/355 – granted permission APRIL 2018 for change of use of a waiting room withing existing primary care centre to pharmacy.
- PA ref no 22/284 – refused permission JULY 2023 for development which consist of retention, completion and alterations to existing car parking and grassed area

To the south

- ABP 304928-19 – permission granted OCTOBER 2019 on Crown Equipment site for 288 apartments, neighbourhood facility, creche and associated works (Permission included for a pharmacy with a floor space of 200sqm)

5.0 Policy Context

5.1. Galway City Development Plan 2023 – 2029

5.1.1. Site zoned Commercial Industrial – Section 11.2.6

To provide for enterprise, light industry and commercial uses other than those reserved to the CC zone

Uses which are compatible with and contribute to the zoning objective, for example:

- Warehousing/Storage
- Retail of a type and of a scale appropriate to the function and character of the area
- Specialist offices
- Offices of a type and of a scale appropriate to the function and character of the area
- Light Industry
- Accommodation for the Traveller Community
- Childcare facilities
- Community and cultural facilities
- Allow for development of Regeneration and Opportunity Sites in accordance with the provisions of Chapter 10 and Policy 10.2 Strategic Regeneration and Opportunity Sites, particularly where it is identified to provide for mixed use development which includes for residential.

The following is a specific development objectives for a number of CI zones throughout the city:

Bulky goods retailing and local retailing needs, will be the only retail types considered on CI zoned lands not provided for in the Retail Hierarchy at/adjoining; Briarhill, Doughiska Road (West of), Tuam Road, Dublin Road, Sean Mulvoy Road, Sandy Road, Headford Road/Bóthar na dTreabh (north of the Bodkin junction), and Seamus Quirke Road. An exception for the consideration of food store and restaurant use will apply to a portion of CI lands at Briarhill, namely the site of Western Motors and the adjoining site to the east, bounded by the Monivea Road and Parkmore Road.

5.1.2. Chapter 6 Economy, Enterprise and Retail , Part 2: Retail Strategy

Table 6.1 – Level 5 Neighbourhood Centre - Includes Salthill, Renmore Knocknacarra (Shangort), Doughiska (Doughiska Rd.) Road), Roscam; Mervue, Castlegar, Ballinfoile.

“The Retail Planning Guidelines (2012) describes neighbourhood centres as providing shopping at a local level. Typically the provision in neighbourhood centres is primarily convenience goods retailing. Many include some local services such as pharmacies, hairdressers and dry cleaners. Neighbourhood centres perform important functions in supporting communities as they are normally very accessible. They provide for ‘top up shopping’ for the immediate catchment and in addition to providing a service they also play a broader role in fostering community spirit. They are particularly important for providing a service that is not dependant on car access and are capable of being reached on foot or by cycling within 10-15 minutes.”

There are a number of existing developed pockets of commercial activities in the city that function as neighbourhood centres such as commercial hubs on the Dublin Road; Remore; Joyce’s Knocknacarra; Salthill Village; Doughiska Road; Roscam; Castlegar commercial centre; Ballinfoile (Tornóg); and emerging sites such as that under construction on the Crown Square, Mervue. It is policy to facilitate the development of new neighbourhood centres and also to allow for expansion in existing neighbourhood centres where it can be demonstrated that there is a deficit of services or where significant population is planned for in accordance with the Core Strategy.

5.2. Natural Heritage Designations

Galway Bay Complex SAC 1 km to the South

5.3. EIA Screening

The current application before the Board does not constitute a class of development for which EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

- The principal issue of the appeal is whether the proposed development complies with City Development Plan Zoning of Commercial/ Industrial of the area.
- The planning authority considered that the function and character of the area is primarily a business park. The applicant contends that this is incorrect that given the nature of uses in the area, the CI zoning and the nature of mixed uses within the existing and permitted development, the site should be classed as an emerging neighbourhood centre.
- Section 6.5 of the Galway City Development Plan sets out retail hierarchy for the city. With respect to Level 5 Neighbourhood Centres the plan identifies Crown Square, Mervue as an emerging site. The applicant contends that the lands zoned CI should be identified as an emerging Neighbourhood centre in line with Section 6.5.
- The zoning objectives for the area in the current plan are identical to the Galway City Development Plan 2017 -2023 Permission was granted for a pharmacy to the south of the site, under the same zoning by An Bord Pleanala (ABP 304928-18) .
- Under the previous plan with identical zoning, Galway City Council permitted (PA 17/355) a change of use in the existing medical centre for a pharmacy building. (This application was by the same applicant but never taken up for operational reasons).

- Section 11.2.6 of the Galway City Development Plan outlines specific objectives with regard to the CI zoning for the site. “Bulky goods retailing and local retailing needs, will be the only retail types considered on CI zoned lands not provided for in the Retail Hierarchy.” The applicant states that this objective is not entirely clear and it is anti -competitive which is a contradiction of Retail Planning Guidelines under Section 2.5.3 which states “That the planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation”
- There is a justification of need for the pharmacy at this location. There is an existing medical centre within the adjacent building, whereby prescriptions are provided patients are required to travel outside neighbourhood centre and drive a km to fill their prescription.
- The retail Planning guidelines seek to encourage sustainable travel . Section 6.11 of the City Development Plan promotes the concept of 15 minute neighbourhood. The average distance a person walks in 15 minutes is 1km.
- 2016 CSO data shows that there are 7725 persons within 1.0km of the proposed development site. Currently there is only one pharmacy within 1.0km of the proposed development site at Marvue.
- Having regard to the number of residents currently in the area and future number of residents at Crown Square Development (529 bed spaces) it is clear there is a shortfall of a least one pharmacy in the area.
- There is clear precedent for granting permissions for a pharmacy within the CI zoning, with two different permissions permitted since 2017 for pharmacies.
- The planning authority report failed to consider the existing number of car parking spaces allocated and approved within the office space where the proposed change of use is intended.

6.2. Planning Authority Response

None

6.3. Observations

None

7.0 Assessment

7.1.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site and having regard to the relevant national and local policy guidance, I consider the main issues in relation to the appeal are as follows:

- Principle of Development
- Other Issues
- Appropriate Assessment

7.1.2. Principle of Development

The site is located on lands zoned Commercial Industrial, 1km north- east of the commercial core of Galway City Centre. There is an existing office building on site with multiple different business operating out of it. The planning authority has issued a decision to refuse permission due to the proposed development's inconsistency with the CI zoning objective outlined in the City Development Plan. The planning authority does not consider the site a designated district or neighbourhood centre and references the Retail Strategy and Core Strategy of the Galway City Development Plan.

7.1.3. Section 11.2.6 of the City Development Plan imposes restrictions on permissible uses within CI zoned lands, allowing retail activities only if they align with the area's function and character, predominantly limited to bulky goods retailing and local retailing needs. The applicant argues that the provision of a pharmacy at this location is suitable in terms of type and scale for the area, citing its classification as an “emerging neighbourhood centre” as per Part 2 of the retail strategy of the Galway City Development Plan. The plan designates Crown Square, Mervue as an emerging site under Level 5 Neighbourhood Centres; the applicant advocates for the inclusion of all of the CI zoned lands as an “emerging Neighbourhood centre.”

- 7.1.4. To the immediate south (zoned commercial/industrial) of the site under ABP 304928-19 – permission was granted on Crown Square Mervue site for 288 apartments, neighbourhood facility, creche and associated works (Permission included for a pharmacy with a floor space of 200sqm). This permission was assessed under previous Galway City Development Plan 2017-2023, where I noted the zoning and objectives are identical to the existing Development Plan. Section 10.2.1 of inspector's report identified the site as an "emerging neighbourhood centre." Reference in this section is also made to the site classification within the retail strategy as an "emerging neighbourhood centre".
- 7.1.5. The inclusion of all lands zoned CI as an emerging neighbourhood centre is a key consideration in this assessment. Having regard to the provisions in the Development Plan, it is not immediately evident where the designation of "emerging neighbourhood centre" starts and finishes. Mervue Crown development immediately abuts the site to the south and is within the same zoning. Within the IDA small business Park (proposed development) and Fleming Business Centre there is a medical centre, offices, laboratory, Discovery Church and shop with petrol pumps. These services primarily cater to a local catchment and are of modest scale. The consideration of this area as an "emerging neighbourhood centre" aligns with the prevailing business landscape and ongoing development to the south presents opportunities for additional local services. Therefore, I consider it appropriate that the area be interpreted as "emerging neighbouring centre" to remain consistent with the zoning for the area. Furthermore section 11.2.6 of the City Development Plan does not specifically exclude retail development but states it should be considered only where they align with the areas function and character and serves a local retailing need. Owing to the size and scale of change of use development and proximity to adjacent medical centre I consider that the proposed pharmacy does align with the character and function of the area and serves a local retailing need.
- 7.1.6. Addressing other concerns raised by the planning authority, I do not believe that the introduction of a single pharmacy unit will significantly detract from the retail functions of the city centre. Instead, a pharmacy of reasonable size and scale can adequately serve the growing local population. The necessity for the pharmacy has been justified by the applicant, citing only one pharmacy within a 1km radius of the proposed site and an estimated local population exceeding 7500 people within the

same radius. Furthermore, I take into account Section 6 of Retail Planning Guidelines, which advocate for the concept of a 15-minute neighbourhood, promoting the availability of local services within a reasonable walking distance. I find that the provision of a pharmacy of limited scale aligns with the concept of a neighbourhood centre and is consistent with the policies outlined in the Galway City Development Plan and retail Planning Guidelines for this area.

7.2. Other Issues

The applicant and planning authority have made reference to the provision of car parking at this location. I note recent planning site history and application for the provision of additional car parking spaces. As per the Galway City car parking standards there is a requirement for 6 number spaces be designated for use associated with the pharmacy. Upon review, it is determined that the current configuration within the grounds of the existing offices and medical centre offers adequate capacity to fulfil this requirement. I find that the area is adequately serviced with available car parking spaces, thus deeming it a non-material consideration in the assessment of this case.

7.3. Appropriate Assessment

The site does not within any designated area. Having regard to the nature and limited scale of the proposed development, and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

The development accords with local planning policy as follows:

- (a) The nature and scale of the development, which align with the areas function and character as required under section 11.2.6 of the City Development Plan,

- (b) The location of the development on lands zoned commercial/industrial adjacent to existing medical centre,
- (c) The provisions of the city Development Plan and the identification of lands in the area as an “emerging neighbourhood centre”
- (d) The provisions outlined within the Retail strategy Section 6.11 which promotes the concept of the 15 minute neighbourhood,

it is considered that, subject to compliance with the conditions set out below, the proposed change of use will not significantly detract from the retail functions of the city centre area or set an undesirable precedent in the context of provision of a pharmacy immediately adjacent to existing medical centre. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended plans and particulars received by An Bord Pleanála on the 20th Day of October 2023, 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. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the

area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid within 6 months from the date of this notification or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Darragh Ryan
Planning Inspector

12th of March 2024

