



An
Bord
Pleanála

Inspector's Report

ABP-318327-23

Development	Retention of 11 Ensuite Bedrooms which was originally under Planning Ref. 93/713, a doctor's surgery and a 6 bed duplex apartment.
Location	12-14 Prospect Hill, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	23119
Applicant(s)	Eastat Limited
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Eastat Limited
Observer(s)	None
Date of Site Inspection	27/02/24
Inspector	Darragh Ryan

1.0 Site Location and Description

- 1.1. The existing building is located in Galway City Centre at 12- 14 Prospect Hill north-east of Eyre Square. The building for retention comprises of 2 storey and 3 storey elements, with the retention permission pertaining to the 1st and 2nd floors.
- 1.2. There is an existing late-night takeaway and bookmakers shop immediately bounding the site. The existing public house and upstairs accommodation is currently open for business.
- 1.3. The site is within the Eyre Square Architectural Conservation Area, no building associated with the development or adjacent structures consist of a protected structure. The site area is .08486sqm.

2.0 Proposed Development

- 2.1. The development for retention consists of:

11 no ensuite bedrooms over first and second floor levels to be used as ancillary accommodation to the hospitality business on the ground floor.

3.0 Planning Authority Decision

3.1. Decision

The proposal to change of use of 6 no. apartments consented for use in long term private rental market/property market, to 11 no ensuite bedrooms for use as short-term letting accommodation, in a designated Rent Pressure Zone, would be contrary to national housing policy, Ministerial Guidance note for local authorities and Policy 3.1 of the Galway City Council Development Plan 2023 -2029 having regard to local demand for long term rental accommodation. It is considered that the proposed short – term usage including the pattern of occupancy and servicing of the property could give rise to conditions which would contribute to the ongoing deficit of long-term housing accommodation, contrary to Policy 3.1 of the Galway City Development Plan 2023 – 2029.

(I note the refusal reason states 6 no apartments, I believe this to be a clerical a error as there was previously only 1, 6 bedroom apartment on site.)

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning authority reports on file. They can be summarised as follows:

- The site is zoned “City Centre” – the proposal is open for consideration.
- A outline of Circular’s on Guidance on Planning Applications for Short Term Lettings in Rent Pressure Zones have been provided. Details of relevant policy from The Galway City Development Plan have been outlined.
- A further information request is outlined whereby the planning authority raises concerns regarding the proposed use of residential accommodation for short-term letting, highlighting potential non-compliance with Government guidance and the Galway City Development Plan concerning such lettings. The planning authority has requested further details regarding how the proposal aligns with the primary use on-site. Specifically, they seek information on the presence of a bar/liquor license on the ground floor, photographic evidence of its use, and details regarding storage areas at the rear of the property.
- Upon reviewing the additional information provided, it was observed that the ground floor area is designated for use as a public house. However, concerns persist regarding the ancillary nature of the accommodation, as there is no internal connectivity indicated between the accommodation and the bar. Moreover, the development could potentially accommodate short-term lettings for up to 22 individuals daily, without the provision of communal facilities, indicating substandard operational facilities.
- The proposed change of use from long-term rental accommodation to short-term rental accommodation would establish an undesirable precedent for change of use, particularly in light of Galway City's designation as a rent pressure zone. As such, refusal of the application was recommended due to the lack of compliance with Development Plan policy 3.1 and Government Policy regarding such developments.

3.2.2. Other Technical Reports

- None

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- None

4.0 Planning History

- PA Ref No 22/230 – Permission granted JANURARY 2023 for development which consists of retention and permission of works described as follows:
 - Retention for the demolition of an attached extension to rear of the existing development (area 155sqm)
 - Permission to reinstate new structure to the rear of development (area 145.6sqm)
- PA Ref No 99/97 – Permission granted April 1999 for changes to front elevation of Paddy's Bar
- PA Ref No 93/713 – Permission granted for the erection of rear extension comprising enclosure of small yard, relocation of rear garage, basement and 1st floor store.

5.0 Policy Context

5.1. Galway City Development Plan 2023 - 2029

Zoned City Centre

5.1.1. Policy 10.1 City Centre

1. Maintain and enhance the resilience of the city centre by reinforcing its dominant role for commerce, shopping, tourism, cultural and leisure activities, enhancing its vitality and attractiveness as a place to work, live and visit.
4. Encourage a living city centre by requiring a residential content in new developments and promoting a high quality urban environment in the design and layout of new schemes.

5.1.2. Policy 3.1 – Housing Strategy

23. Ensure the provisions of the Residential Tenancies (Amendment) Act 2019 and the Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2019 and any other future legislation and guidelines are applied where planning permission is required to control short-term letting accommodation to prevent a negative impact on housing supply and /or an over-concentration of such uses. Notwithstanding this, where planning consent is required under legislation for short term letting, there will be a presumption against allowing such a use in view of the status of the city defined as a rent pressure zone

5.1.3. Policy 6.8 Tourism Sector

4. Work in partnership with Fáilte Ireland and key stakeholders to support the hospitality sector and promote tourism related facilities including a sustainable range of tourism accommodation.

5.2. National Guidelines

The following national guidelines are also relevant:

- Guidance Note for Local Authorities for Regulating Short Term Letting (July 2019), Department of Housing, Planning and Local Government.

- 5.2.1. Circular PL10/2017 and PL 04/2019 sets out guidance on planning applications for short-term lettings.
- 5.2.2. **Circular PL10/2017** This Circular seek the protection of residential rental stock in areas of high housing demand/need. The strategy for the rental sector recognises the issue of potentially significant numbers of properties being withdrawn from the long-term rental market for use for short-term lettings and the negative impact this would have for the supply and availability of residential rental accommodation. The growing use of online platforms may, if not adequately regulated, facilitate, and encourage this trend.
- 5.2.3. **Circular PL4/2019.** The primary objective of this circular is to influence the bringing back of houses and apartments in designated Rent Pressure Zones which are currently being used for short-term letting purposes to the traditional long-term rental market thereby helping to ease the accommodation shortage pressures currently being experienced in this area.

The Circular sets out the summary of the new legislative provisions which include Section 38 of the Residential Tenancies (Amendment) Act 2019 and inserts a new Section 3A into the Planning and Development Act 2000 to provide that short-term letting of a house in a Rent Pressure Zone is a material change of use of the property concerned thereby requiring planning permission, unless specifically exempt from this requirement. A short-term letting is defined as a letting of a house or apartment or part of a house or apartment for any period not exceeding 14 days

5.3. Natural Heritage Designations

Galway Bay Complex SAC – 400m to the southeast
Lough Corrib SAC – 500m to the west

5.4. EIA Screening

EIAR Screening Determination 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 planning authority is inaccurate in its decision, the proposal consisted of change of use of one 6 bed apartment to short-term letting and not 6 apartments as indicated in the reason for refusal. The reason for refusal is therefore erroneous.
- The nature of proposed use is ancillary to the primary use of public house as clearly stated within the statutory notices. A letter from solicitor and photographic report has been issued which illustrates same.
- No objection to a condition which specifically seeks that the ensuite bedrooms be retained as ancillary to the use of hospitality business.
- There is Policy support for tourist accommodation within the NPF, RESES and Galway City Development Plan.
- Circular PL6/2019 (error should be PL4/2019) permits the consideration of exceptional circumstances in evaluating planning applications for short-term lettings. The ground floor of the premises has been operating as a longstanding public house, and the proposed upper floor guest accommodation would align well with this hospitality use. Given the surrounding establishments such as late-night takeaways and bookmakers, the area's character is better suited for tourist accommodation rather than long-term residential use.
- The quality of the former 6-bedroom duplex apartment does not constitute high quality residential accommodation, with regular noise disturbance from the public house to be expected.
- The apartment of 6 bed does not meet current market demands at this time, Census 2016 demonstrates that average household size in Galway City is 2.58 persons. The loss of a 6-bed apartment which does not meet with demographic or market needs would not represent a significant loss to the long term rental market.

- The apartment on site has been vacant for 7 years – a letter supplied by property owner in this regard.
- The internal connection at ground floor level was in place however was required to be removed to comply with Fire Safety standards.
- The planning officer notes that if the short-term letting were to serve as student accommodation, it could potentially accommodate 22 individuals daily or weekly. However, due to the absence of communal facilities, the proposal would fall below acceptable standards. It's evident that the proposal is not primarily designed for student accommodation. Nevertheless, the applicant is open to providing a communal room and kitchen prep area if deemed necessary by the Board, potentially replacing one of the ensuite bedrooms.

6.2. Planning Authority Response

- None

6.3. Observations

- None

7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings:

- Principle of the proposed development/short-term letting.
- Appropriate Assessment

7.2. Principle of the proposed development/short – term letting

The previous use of the first and part of second floor of the building was a doctor's surgery and one 6-bedroom apartment. Layouts have been provided of these former uses. These layouts have been altered as the applicant carried out unauthorised works and sought retention for same under PA ref 22/230. (retention for the demolition of an attached extension to rear of the existing development (area 155sqm), and permission to reinstate new structure to the rear of the development

(area 145.6sqm) A retention permission is now sought for the change of use of first and second floor of the building. I note that “Mary Mullens Rooms” are currently advertised on Booking.com.

7.2.1. The appeal site is located within a Rent Pressure Zone (RPZ). RPZ’s are designated areas intended to moderate the rise in rents and create a stable and sustainable rental market. The Departmental Circular Letter PL4/2019 addresses ‘New Regulations of Short-term Letting’, which are aimed at bringing back houses and apartments currently used for short-term letting in designated rent-pressure zones, to the traditional long-term rental market.

7.2.2. Considering the refusal reasons outlined by Galway City Council in their decision, where the proposed development, if approved, would exacerbate the existing shortage of long-term housing accommodation, conflicting with National Policy and Development Plan, and considering the concerns raised in the appeal, I find that National Policy Guidance and Development Plan policies alongside, the nature and location of the development, are the primary focal points of this appeal. Therefore, the assessment will be structured accordingly, addressing each of these aspects in detail.

7.2.3. Local and National Planning Policy

The applicant argues that their proposal for pub accommodation aligns with the City Centre Zoning objective and other relevant policies outlined in the Galway City Development Plan. The city centre zoning, whose role as identified within the Development Plan is to maintain and enhance the resilience of the city centre by reinforcing its dominant role for commerce, shopping, and tourism. Tourism related uses are identified as compatible with and contribute to the zoning as set out under Section 11.2.7 of the Galway City Development Plan 2023 -2029.

Section 10.2 of the Galway City Development Plan designates the city centre as the central hub for commercial activities, emphasising its pivotal role in facilitating a wide array of retail, commercial, tourism, social, and cultural endeavours. It is identified that the city centre must maintain a diverse range of functions, thereby fostering a vibrant day and night-time economy contributing to the city's overall growth and development. I consider that the provision of short term let accommodation to be in accordance with zoning objectives and wider policies for the city centre.

- 7.2.4. Policy 3.1, Point 23 of the Galway City Development Plan 2023-2029 stipulates that in cases where planning permission is necessary to regulate short-term letting accommodations, there is a presumption against allowing such use. This stance is taken due to the city's designation as a rent pressure zone, with the objective of mitigating adverse effects on housing supply and preventing the over-concentration of such accommodations. Furthermore, the policy outlines that national legislation and guidelines are to be applied where planning permission is required to control short term-letting accommodation. I do not interpret this specific policy as a blanket ban on the provision of short-term letting but a presumption against such development in view of an assessment of all the pertinent issues.
- 7.2.5. Furthermore, the applicant asserts that the proposed pub accommodation does not contravene Ministerial Guidance Note for local authorities (PL 4/2019). They cite provisions within the circular that allow for exceptional circumstances to be taken into account. The guidance emphasises considering the nature and character of the location, particularly whether it is situated in a city or town centre or primarily a residential area. For city or town centres, the guidance underscores the importance of striking a balance between various demands, including the provision of additional tourism accommodation to support tourism, a critical economic driver.
- 7.2.6. Nature and Location of the development
- 7.2.7. The applicant seeks that consideration be given to short term lets in this instance as the proposed use is ancillary to the use of a pub. According to the applicant the planning authority in this instance has made an unfair assumption that the provision of the accommodation is sperate to the pub enterprise. Having reviewed the documentation supplied including floor layouts and statement supplied from applicant's solicitor and having carried out a site inspection, I agree that the accommodation to be provided is ancillary to the use of a pub and can be retained as such. I further note that the accommodation is currently advertised online as "Mary Mullens Rooms" and as such a clear indication that is accommodation associated with the use of the pub.
- 7.2.8. The development for retention is located 50m northeast of Eyre Square. There is a pub located at ground floor level, a takeaway late night pizza shop is immediately

adjacent and a bookmakers to the west of the accommodation. I consider this location to be most suitable for the provision of accommodation associated with the night-time economy. To the rear of the bedrooms at ground floor level is an extensive smoking area/beer garden by which the ensuite bedrooms directly overlook. I agree with argument by the applicant that the provision of long-term accommodation at this location in the city is not best suited given the potential disturbance from the primary use on site namely the public house and adjacent uses associated with the night-time economy. Therefore I consider that the proposal complies with Section 7.2 of Guidance Note for Local Authorities for Regulating Short Term Letting (July 2019), whereby in considering the standard of previous accommodation on site, it is determined that the location and standard of development proposed is most suited to tourist accommodation.

7.2.9. The proposed change of use involves transitioning from a six-bedroom apartment and a doctor's surgery. Concerns within rent pressure zones primarily revolve around the displacement of private rental accommodations by short-term rentals. Given the previous commercial activity (the doctors' surgery) occupying the first floor, it is pertinent to view this portion of the development as a shift from one commercial activity to another. While the remainder of the development entails a conversion from long-term residential to short-term letting, it is essential to duly consider the distinct classes of previous use on the site. In the broader context of city centre development and the provisions outlined in ministerial guidance/ Circulars regarding exceptional circumstances, I find the conversion of a single apartment and doctors' surgery into 11 tourist bed spaces ancillary to a public house to be an exceptional circumstance owing to ancillary nature of development and site location with the primary use thoron being a public house.

7.2.10. Having regard to the above, I do not consider the proposal would be contrary to national housing policy, Ministerial Guidance/ Department Circular's or the Development Plan in this regard. Although the stated policy within the City Development Plan is a presumption in favour of short-term letting at this location, I have considered all aspects of the development and note the allowance within the department guidance to assess the application against wider parameters including nature of use and location. Having regard to the nature of use, I consider the accommodation as proposed will be ancillary to the primary use of the public house

on site and can be reasonably controlled as such by way of condition. The development is located within the city centre zoning, where tourism related accommodation is open for consideration. Other development Plan policies also promote the provision of tourism accommodation within the city centre namely policy 6.8. Having regard to foregoing I recommend retention permission be granted in this instance.

7.3. Appropriate Assessment

Having regard to the development for retention, the site location within a built – up area outside of any protected site and the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion 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 Natura 2000 site.

8.0 Recommendation

Having regard to the above it is recommended that retention permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

- (a) The nature of the development, ancillary to the use of a public house,
- (b) The location of the development on City Centre zoned lands, where Tourism related uses are considered compatible under Section 11.2.7 of the Galway City Development Plan 2023 - 2029,
- (c) The proposal aligns with Section 10.2 of the Galway City Development Plan 2023-2029,
- (d) The provisions outlined within Guidance note for Local Authorities for Regulating Short Term Letting (July 2019), Department of Housing, Planning and Local Government and Circular PL10/2017 and PL 04/2019 which sets out guidance on planning applications for short-term lettings.

it is considered that, subject to compliance with the conditions set out below, the development for retention would not be seriously injurious to the amenities of the

area or set an undesirable precedent in the context of an ancillary use in a city centre zoning. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10. Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application as amended plans and particulars received by An Bord Pleanála on the 23rd 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. The use of the first and second floor of the premises shall be ancillary to the primary use of public house on site and the entirety of the premises shall be managed as a single entity.

Reason: In the interest of clarity, orderly and sustainable development

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

1st March 2024

