



An
Bord
Pleanála

Inspector's Report ABP-318814-24

Development

Permission for retention and completion of change of use of dwelling house granted permission under reference number 21/305 to guesthouse accommodation and amalgamation into mixed-use guesthouse and restaurant building granted permission under planning reference 19/157, alterations to elevations permitted under planning reference numbers 19/157 and 21/305 and permission to demolish existing single storey building.

Location

Number 3, 5 and 7 Newtownsmith Street and number 11 Mary Street, Galway City.

Planning Authority

Galway City Council

Planning Authority Reg. Ref.

23/226

Applicant

Chartered Privilege Ltd.

Type of Application

Permission for retention and planning permission

Planning Authority Decision

Refuse Permission

Type of Appeal	First Party v. Refusal
Appellant(s)	Chartered Privilege Ltd.
Observer(s)	Bowling Green Residents' Association
Date of Site Inspection	1st day of August 2024
Inspector	Fergal O'Bric.

1.0 **Site Location and Description**

- 1.1 The appeal site comprises a three-storey commercial building that fronts onto Newtownsmith Street and has an elevation onto Mary Street within the western part

of Galway City centre, approximately 230 metres south-west of Eyre Square and 160 metres north-west of Shop Street which is part of the designated core retailing area within the city Centre. There is a restaurant business operating at ground floor level with access doors onto both street frontages and a seventeen-bedroom guesthouse operating largely at first and second floor level within the building, with a reception area, caretaker bedroom and services area at ground floor level.

- 1.2 The site is located within the zone of archaeological notification and part of the appeal site. Number 1 Mary Street is located within the city core Architectural Conservation Area (ACA) however, the remainder of the property at number 3, 5 and 7 Newtownsmith Street are located outside of the city core ACA. To the west of the appeal site, on the opposite side of Newtownsmith Street is a city centre surface car park area (managed and owned by Galway City Council) and the Bowling Green residential area as well as the River Corrib. To the north of the appeal site is a two storey-secondary school as well as a three-storey mixed use development 'Abhainn na mBradán', which is largely vacant. To the south are two and a half-storey commercial premises facing onto Mary Street and to the east is a car park area associated with the secondary school campus,

2.0 Development Description

- 2.1 The development comprises the following:

a) Permission for retention and completion of

1) Change of use of dwelling house permitted under planning reference 21/305 to guesthouse accommodation and amalgamation into mixed-use guesthouse and restaurant building permitted under planning reference 19/157.

2) Internal layout changes including communal living area, reception/storage area, caretakers room and guesthouse bedrooms.

3) Additional extensions at first and second floor levels to rear over permitted kitchen area to be used as part of guesthouse permitted under planning reference number 19/157.

4) Alterations to elevations permitted under planning reference numbers 19/57 and 21/305.

b) Planning permission to demolish existing single storey building at number 7 Newtownsmith Street.

c) All associated site works and services.

2.2 The planning application was accompanied by a planning statement, providing a context for the development, a response to the previous reasons for refusal for a similar type of development refused planning permission under planning reference 22/297, outlining national and local policy which supports the development of tourist accommodation and facilities including guesthouse accommodation and restaurant uses. An Archaeological Assessment has also been submitted which identifies the archaeological features that remain within number 7 Newtownsmith Street (also known as number 5A Newtownsmith Street) and a methodology as to how the structure could be demolished.

2.3 The appeal submission from the applicants includes alternative elevation design proposals for the western elevation onto Newtownsmith Street. These would incorporate new plaster bands around the central upper floor windows, an enlarged vertical signage section and fenestration detailing within number 5 Newtownsmith Street.

3.0 **Planning Authority Decision**

3.1 Decision

Planning permission for retention of dwelling house permitted under planning reference 21/305 to guesthouse accommodation, Internal layout changes, Additional extensions at first and second floor levels to rear, alterations to elevations and

permission for demolition of number 7 Newtownsmith Street was refused for two reasons as follows:

- 1 The proposed development, if granted, would result in an increase from a 7-no. guest house permitted under planning reference 19/157 to 1 17-bedroom guesthouse. It is considered that this capacity increase would materially change the nature, extent and operation of the guesthouse previously permitted, whilst also giving rise to a significant intensification of use on the site, which would be detrimental to amenities in the area and adjoining city centre residential neighbourhood and would be contrary to Section 11.2 Land Use zoning general of the Galway City Development Plan 2023-2029 which states that 'in the boundary area of adjoining zones it is necessary to avoid development which would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in areas abutting residential zones, a particular proposal may not be acceptable which would be acceptable in other parts of the zone'. Having regard to the site context, the scale, intensity of the proposed development, and the provisions of the City Development Plan, it is considered that the development as proposed is inappropriate for this site and, therefore, the development would be contrary to the Galway City Development Plan 2023-2029 and to the proper planning and sustainable development of the area.
- 2 The overall poor design and low-quality visual appearance of the front elevation and the resultant expression onto the city centre streetscape all contribute to the unacceptable and retrograde design resolution for the site. The proposed front faced design would result in a negative impact on the character and visual amenity of this city centre area and streetscape. The proposed development would, therefore, be contrary to the policies and objectives as provided for within the Galway City Development Plan 2023-2029 in Chapter 8 Built Heritage, Placemaking and Urban Design, Chapter 10 Compact Growth and Regeneration and Chapter 11 Development Management Standards and Guidelines and would be contrary to the proper planning and sustainable development of the area.

4.0 Planning Authority Reports

4.1 Planning Reports

The Planners report set out the following:

- The appeal site has the benefit of a city centre land use zoning objective which is to provide for city centre activities, and particularly those that preserve the city centre as the dominant commercial area.
- Section 11.2.7 of the Galway City Development Plan (GCDP) identifies a number of uses which are compatible with and contribute to the zoning objective, for example residential and tourist related uses. Therefore, the principle of the guesthouse use is considered to be compatible with and would contribute to the zoning objective that pertains to the subject site.
- The appeal site adjoins residential zoned land to the west of the subject site, on the opposite side of Newtownsmith Street and community/institutional zoned lands to the north, comprising the existing school site.
- The appeal site is in a transitional zone and should have regard to the amenities and sensitivities of both adjoining land use zonings, in terms of the type, scale, and intensity of use proposed.
- The main aim of the Galway City Development Plan is to promote town centre vibrancy, vitality and attractiveness.
- The Planner was satisfied that the development to be retained does not adversely impact upon the character of the City Core Architectural Conservation Area (ACA).
- The PA were of the opinion that the development would adversely impact upon neighbouring residential properties by virtue of the scale and intensity of

the development and the poor-quality design and low-quality visual appearance of the front elevation onto the Galway city centre streetscape.

- They considered that the development would be contrary to the policies and objectives of the Galway City Development Plan 2023-2029, specifically in relation to Section 11.2 zoning, Section 8 Urban Design, Section 10 Compact Growth and Regeneration and Section 11 in relation to Development Management Standards and Guidelines.
- A recommendation to refuse permission for retention of change of use rear extensions and for demolition of property at number 7 Newtownsmith Street was issued.

4.2 Other Technical Reports

Drainage Section: No objections, subject to conditions.

4.3 Prescribed Bodies

Department of Housing, Heritage and the Gaeltacht: No objections, subject to conditions in relation to a detailed building survey and licensed archaeological monitoring being included as part of any grant of planning permission.

An Taisce: Questions the rationale provided for demolition of number 7 Newtownsmith Street, and that considerable damage has been done during the demolition of a party boundary wall, that the proposals do not contribute towards the development of sustainable tourism and that the plot ratio exceeds the standards as provided for within the current Galway City Development Plan. to an adjoining building and recommends that planning permission be refused.

4.4 Third Party Observations

One received from the resident's association of Bowling Green; a residential area located west of the subject site. The main issues raised within their observation related to the following matters:

- Disregard for the integrity of the planning process.
- Omitting the dwelling house permitted under planning reference 19/157 and developing a seventeen-bedroom guesthouse does not support the residential amenity of the area.
- Number 5 Newtownsmith Street should be reconfigured and returned to residential use.
- The intensification of use within the premises is not appropriate.
- Non-compliance with planning enforcement notice.

4.5 Planning History

Subject Site:

Planning Authority reference number 22/297-In 2022, Galway City Council refused planning permission for retention and completion of change of use of dwelling house permitted under planning reference 21/305 to guesthouse accommodation and amalgamation into existing building permitted under planning reference 19/157; retention and completion of alterations to elevations, retention and completion of additional extensions at first and second floor levels to rear over permitted kitchen area to be used as part of guesthouse permitted under planning reference number 19/57 and all associated site works and services. Reasons for refusal related to 1) excessive plot ratio 2) Substandard operational and communal facilities 3) Poor design and low-quality visual appearance 4) Detrimental impact upon city centre character and negatively impact the adjacent city core Architectural Conservation area.

Planning Authority reference number 21/305-In 2021, Galway City Council granted planning permission to demolish existing two storey building, permission to construct a new three storey dwelling house with private open space to include a roof garden and all associated site works and services.

Planning Authority reference number 19/157-In 2019, Galway City Council granted planning permission to demolish existing guesthouse at number 3 Newtownsmith Street along with existing buildings, construct a new three storey mixed use building including a restaurant at ground floor level with ancillary kitchen, toilets, bin store and dining area, revised ventilation arrangements, a new guesthouse at first and second floor levels incorporating first and second floor levels of number 11 Mary Street, amalgamation of existing restaurant at ground floor level at number 11 Mary Street into proposed new restaurant, amalgamation and change of use of first floor of number 11 Mary Street from restaurant/dining area to part of new guesthouse, amalgamation and change of use of second floor of number 11 Mary Street from bedroom to part of new guesthouse, new signage, outdoor seating area and canopy along number 3 Newtownsmith Street and all associated site works and services.

5.0 Policy and Context

5.1 Galway City Development Plan 2023-2029

The appeal site has the benefit of a city centre (CC) land use zoning within Plan where the objective is 'To provide for city centre activities and particularly those, which preserve the city centre as the dominant commercial area of the city'.

Section 11.2.7 sets out that uses which are compatible with and contribute to the zoning objective, for example include: retail, residential and tourist related uses.

Section 6.3.1 pertains to the commercial sector where the following is set out 'Retailing in particular contributes to the commercial life of the city and is key in conjunction with the hospitality, restaurants, café culture and entertainment sector to support the competitiveness and the attraction of the city for both residents, the high student population and the tourism market'.

Policy 6.8 Tourism Sector

- 1) Recognise the significant contribution that national and international tourism makes to the local economy and the vitality of the city and facilitate, in partnership with Fáilte Ireland and key stakeholders, the sustainable development of associated infrastructure, attractions, including a destination

attraction of scale and events particularly where they reflect the distinctive history, culture and environment of Galway and highlight the significance of Galway as the only city on the “Wild Atlantic Way” and as a gateway to the Northern and Western Region.

- 2) 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.
- 3) Support the city as a destination city and support adoption of the VICE model for Destination management to ensure Sustainable Tourism which considers the interaction between Visitors, the Industry that serves them, the Community that hosts them and their collective impact on, and response to the Environment.

Section 8.3 pertains to Architectural Conservation Areas (ACA's) and the following is set out specifically in relation to the city centre ACA 'The medieval core of Galway is a mix of streetscape and buildings of many periods. The layout and the scale of some of the streets reflect the medieval street pattern. The city core is the most important area of built heritage in Galway. Its designation is beneficial in ensuring the area's character is enhanced and protected'.

Section 8.8 Urban Design and Placemaking-Regeneration and Opportunity Areas

Good urban design within Galway City seeks to reinforce the distinctive character of the city by ensuring a high-quality built environment through good place-making and the creation of sustainable neighbourhoods. Within the city centre in particular, it is important to promote new development that integrates well and respects the city's existing built form and natural and historic environment. 1

Policy 10.1(3) 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.
2. Control the proliferation of uses which could lead to the deterioration of retailing on the principal shopping streets.

3. Control the negative impact caused by dominance, due to proliferation or scale, of particular uses.
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. Encourage use of vacant upper floors in the city centre and promote city centre living through measures such as the Living City Initiative.
6. Support a diversity of uses in the city centre public realm including markets, outdoor seating and dining, arts and culture events to add to the vitality and vibrancy of the city.
7. Ensure new developments incorporate design features that complement the character of the city centre.
8. Improve the public realm and residential amenities of existing city centre communities at Woodquay and Bowling Green by the implementation of improvement schemes.
9. Support initiatives to enhance the image and attractiveness and maintenance of the city centre including private properties in co-operation with local businesses, property owners, management companies, communities and other stakeholders. Compact Growth and Regeneration

Section 11.2.7 City Centre zoning

Zoning Objective CC To provide for city centre activities and particularly those, which preserve the city centre as the dominant commercial area of the city Uses which are compatible with and contribute to the zoning objective, for example: – Retail – Residential –Tourist related uses –

Section 11.4.2-Plot ratio

- The plot ratio density standard is designed so as to help prevent the adverse effects of over-development on the amenities of the area.
- In general, for new development, the maximum plot ratio permitted will be 2:1.

- In the CC zone on larger Regeneration Sites consideration will be given to development proposals in excess of the normally permissible plot ratio where such proposals would contribute to sustainability, architectural quality, urban design, public realm, delivery of housing and make a significant contribution to urban character. This excess will be interpreted as a proportional increase only and will be assessed on performance-based outcomes and general standards.

5.1 National Guidance

5.1.1 Archaeological Heritage Protection Guidelines for Planning Authorities (1999)- Department of Arts, Heritage Gaeltacht and the Islands.

Section 3.2-Development led excavation.

5.1.2 Architectural Heritage Protection Guidelines for Planning Authorities (2011)- Department of Arts, Heritage and the Gaeltacht.

Chapter 3: Architectural; Conservation Areas (ACA's).

Section 3.7 Development Control in ACA's.

5.3 Natural Heritage Designations

There are no European sites within the vicinity of the site. The Lough Corrib Special Area of Conservation (000297) is located approximately 75 metres west of the appeal site.

5.4 Environmental Impact Assessment - Preliminary Examination

Having regard to the limited nature and scale of the development works, and the fact that the development relates to a change of use of a permitted dwelling house to guesthouse accommodation use, permission for first and second floor extensions to the guesthouse accommodation to the rear of the building, alterations to the front elevation and the demolition of a single storey structure at number 7 Newtownsmith Street, the site being fully serviced, the absence of connectivity to any sensitive location(s), there is no real likelihood of significant effects on the environment arising

from the proposed development. The need for environmental impact assessment can, therefore, be excluded.

6.0 The Appeal

6.1 Grounds of Appeal

A first-party appeal was submitted by a Planning Consultancy on behalf of the appellants, Chartered Privilege Ltd. The issues raised in the appeal are summarised below.

Development Plan:

- There is no guidance or limitations specified within the current City Development Plan 2023-29 in terms of minimum or maximum standards for the quantum of guest bedrooms that can be provided within a development, The proposals should, therefore, be assessed on their planning merits and context.
- It is the policy of the Council to support the development of tourist accommodation in the city and in this context, the increase in guest bedroom accommodation is entirely reasonable.
- The increase in the number of guest bedrooms is entirely consistent with the long established and permitted guesthouse use within the site.
- Having regard to the city centre zoning on the site, it is the most appropriate zone to accommodate guesthouse accommodation. The development represents an efficient, viable and sustainable use of this city centre zone.
- Policy 6.8 in the current City Development Plan is to 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.

- Section 10.2-City Centre-Supports a range of public and culture facilities, city living, employment, education and hospitality. The development of the guesthouse would assist in providing a hospitality use and, therefore, consistent with the identified role of the city centre.
- The development complies with Section 6.8 in relation to providing a sustainable range of tourism accommodation and Section 10.2 in terms of supporting the growth of tourism development within the city centre, all within the current City Development Plan.

Site Context:

- The site is surrounded by a secondary school and its associated car park to the north and east of the subject site, to the south-east by Mary Street which includes a number of commercial and residential uses, to the west on the opposite side of Newtownsmith Street is a public car park, a commercial premises (providing body piercing and tattoo services), a late night music bar and further west is the terraced residential development of Bowling Green, and further north-west is the mixed use 'Abhainn na mBradán' development, which is largely vacant.
- The immediate urban environment does not contain 'amenities' that would be sensitive to an enlarged guesthouse development.
- The adjoining uses of the secondary school, music bar, body piercing and car park are not environmentally sensitive uses and would not be detrimentally affected by an increase in the guesthouse accommodation provision within the appeal site.
- The nearest residential zone to the appeal site, is the car park on the opposite side of Newtownsmith Street, a surface car park owned and operated by Galway City Council. There are no known plans to develop the site for residential purposes.

- The car park across the street is identified within the current City Development Plan as being suitable for motorcycle parking.
- The residential zone across the street from the appeal site is not environmentally sensitive in this particular instance. Guesthouse accommodation is entirely appropriate in this built-up urban location.
- The guesthouse and restaurant use within the appeal site provide vibrant commercial tourism uses and activity and adds to the experience of the city centre and supports national and local planning policy.

Design and Layout:

- The development has been fitted out to a high standard, The guest bedrooms are generously proportioned, each having its own ensuite bathroom and windows to optimise their daylight. The guesthouse includes a reception area, a caretaker's bedroom, two communal areas and dedicated bin storage and bicycle parking area.
- A satisfactory capacity of operational and communal facilities is provided for the seventeen guest bedrooms on site.
- The pre-existing streetscape at this location along the northern side of Newtownsmith Street was of low quality and had limited visual amenity. An image from 2022 has been submitted as part of the Archaeological Assessment to support this statement.
- The architectural interventions included within the proposals have resulted in an improved streetscape to what previously existed along the street at this location.
- Design modifications to enhance the Newtownsmith frontage include a raised parapet at number 3 Newtownsmith Street, raised plaster bands around the perimeter of window open and painted a different shade of grey to introduce

contrast within the street elevation number 3 Newtownsmith Steet, introduction of vertical raised plaster bands at number 5 Newtownsmith Steet and the use of individual stainless-steel lettering in the signage onto the front elevation along Newtownsmith Steet. All of the architectural interventions provide animation within these portions of the buildings and respect the proportions of the fenestration detailing.

- The architectural design enhancements result in an attractive and appropriate streetscape intervention at this location.
- The appeal submission from the applicants includes alternative front elevation design proposals for the western elevation onto Newtownsmith Street have been submitted as part of the appeal submission. These relate to a revised paint finish to introduce greater contrast, new plaster bands around the central upper floor windows, an enlarged vertical signage feature incorporating a stone finish and plaster band frame. the signage detail and fenestration detailing within number 5 Newtownsmith Street.

Architectural Heritage:

- The vast majority of the appeal site including the street frontage onto Newtownsmith Street is located outside of the designated city core ACA and, therefore, would not be contrary to the built heritage policies set out within the City Development Plan.
- The proposals are designed to enhance the Newtownsmith street frontage which previously was of low quality and comprised vacant underutilised buildings along this section of street frontage. Photographic images in support of these claims have been submitted.

6.2 Observers

An observation was received from the Bowling Green resident's association who had previously made an observation to the Planning Authority. The following issues were raised within the observation.

- The previous permission pertaining to the appeal site relating to the development of a three-storey dwelling house and seven-bedroom guesthouse was in keeping with the residential zoning of the lands on the opposite side of Newtownsmith Street, within the public car park.
- There are many short stay apartments in the area and there is no pressing need for an increase in guesthouse accommodation.
- The bedroom sizes are small and may not comply with the standards for guest house accommodation under the guest house regulations 2003.
- The original permission would not be in keeping with the residential amenity of the area.
- The proposal to demolish number 7 Newtownsmith Street should be the subject of a separate planning application.
- The applicants have not stated that they are the owners of that particular property.
- The property at number 7 should be made structurally sound and rebuilt as part of the historic fabric of the area.
- The developer should not add decoration with raised plaster proposals within the upper floors of numbers 3 and 5 Newtownsmith Street and should include

an additional door at ground floor level within number 5, in order that it can revert to use as a dwelling.

- The development may not comply with the Building Regulations, and we are unaware what drawings were submitted to demonstrate compliance with same.
- The extension to the rear of the building, constructed over the kitchen area would adversely impact the natural light at the rear of properties at numbers 12 and 13 Mary Street.
- The developer has deliberately ignored the planning laws and the planning process in respect of this development and, therefore, should be refused planning permission.
- Non-compliance with planning enforcement notice.

7.0 Assessment

The main planning issues in this appeal relate to the reasons for refusal as set out by the Planning Authority, the issues raised by the first party in their appeal submission responding to the refusal reasons and the issues raised by the observers within their observation. The main issues relate to the appropriateness of the intensified guesthouse use within this city centre zone, the intensification of the use and the quality of the architectural design and appearance within the streetscape. Other issues in terms of impact upon the neighbouring residential amenities in the Bowling Green area will also be considered. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Design and layout

- Architectural & Archaeological Heritage
- Neighbouring Amenities
- Other Issues
- Appropriate Assessment.

7.1 Principle of Development

7.2.1 The appeal site is zoned City Centre (CC)' within the current Galway City Development Plan (GCDP) 2023-2029 where the objective is 'To provide for city centre activities and particularly those which preserve the city centre as the dominant commercial area of the city'. Section 11.2 of the Development Plan sets out that tourism and related uses, are compatible with and contribute to the city centre zoning objective. The precedent of the development of guesthouse accommodation has already been accepted by the Planning Authority (PA) under planning reference 19/157. Therefore, I am satisfied that the principle of a change of use from a dwelling house to a guesthouse use for the provision of visitor accommodation within a city centre site is acceptable, subject to adhering to a number of development management criteria. In this instance, these criteria would include that the works respect any archaeological heritage remains within the site, that the architectural heritage of the area is respected, given that the southern portion of the subject site at Mary Street is located within the City Core ACA, that the design and layout of the architectural interventions within the western elevation onto Newtownsmith Street are acceptable, consideration of impact upon the neighbouring amenities and to assess if the development accords with the policies and objectives within the Development Plan.

7.2.2 The guesthouse and restaurant uses are not considered to be out of character within this city centre zone with a mix of surrounding retail and non-retail commercial businesses, which include a restaurant, a late-night bar, a body piercing/tattoo business, a surface car park and some residential uses. The uses within the appeal site and the uses within the adjacent buildings are not considered to be out of

character within the Galway City centre area. I am satisfied that the principle of the change of use is acceptable, subject to the matters in relation to archaeological/architectural heritage, design and layout and respecting neighbouring amenities being appropriately addressed. These matters will be addressed in the subsequent sections within this report.

7.3 Design and Layout

7.3.1 The applicants are seeking permission for retention of alterations to the elevations fronting onto Newtownsmith Street and for a two-storey extension to the rear over the ground floor kitchen area, providing for additional guesthouse accommodation. The applicants submit that the site was previously underutilised and vacant and images to this effect from Google Maps in 2017 and 2022 have been submitted. The development at this location in Newtownsmith Street at that time is stated to have been of 'low quality and had limited visual amenity'. The applicants have submitted details of the western elevation as permitted under 19/157 by the Planning Authority and the western elevation as is proposed under the current proposals. The applicants have made some alterations to the fenestration detailing within number 5 Newtownsmith Street to provide for greater consistency with number 3 Newtownsmith Street. A number of other architectural interventions are included within the current proposals in terms of a raised parapet at number 3 Newtownsmith Street, raised plaster bands around the window opes with a slightly darker paint finish and a raised plaster band within the upper elevation at number 3 Newtownsmith Street to frame the signage in order to introduce some animation onto this elevation which fronts onto the city centre streetscape. I consider that the architectural interventions provide for a consistency within the fenestration detailing and a subtle level of animation, while the overall design remains simple and uncomplicated. The external finishes provide for a simple palette of plaster finishes. The alterations are considered acceptable and will provide for some animation within the street elevation onto Newtownsmith Street and I am satisfied that the external finishes proposed are acceptable.

7.3.2 The applicants have set out that the plot ratio is 2.05: 1. They state that the City Development Plan within Section 11.4 allows that consideration be given to

development proposals in excess of the normally permissible plot ratio where such proposals would contribute to sustainability, architectural quality, urban design, public realm, delivery of housing and make a significant contribution to urban character. Given the proposals relate to redevelopment of what was an underutilised brownfield site on city centre zoned lands, whereby suitable uses are provided at ground floor and within the upper floor levels and that the design is considered satisfactory. I consider that the plot ratio at 2.05:1, which marginally exceeds the Development Plan standards as being acceptable in this instance.

7.4 Architectural & Archaeological Heritage

- 7.4.1 The southern section of the appeal site, the section that fronts onto Mary Street is located within the Galway City Core Architectural Conservation Area (ACA) as set out within the current Galway City Development Plan. There are no recorded architectural heritage features within the subject site, with the adjacent Sally Longs bar being included within the National Inventory of Architectural Heritage (NIAH) (ref no. 20405109). The building is a three-storey end of terrace structure, with a painted plaster external finish. The structure is an attractive and important component of the streetscape, on the corner of Mary Street and Newtownsmith Street. The structure is well maintained, and retains some of its original architectural features including decreasing fenestration size between the second and first floor levels and the strong vertical emphasis incorporated within the fenestration detailing. From the proposal submitted, there has been minimal intervention within this part of the appeal site. This is in accordance with one of the pillars (Section 7.7) included within the Architectural Heritage Protection Guidelines (AHPG's). I consider the physical impact upon the protected structure to be slight and the visual impact upon the protected structure is considered to be negligible. The impact of the works within Number 11 Mary Street on the city centre ACA are considered to be imperceptible.
- 7.4.2 Given the architectural significance of the appeal site within a prominent city centre location, the impact of the proposals on the architectural integrity of the appeal site and the wider ACA needs to be duly considered. Another of the pillars within the Architectural Heritage Protection Guidelines (AHPG's) is that the buildings remain in use (Section 7.3 AHPG's). The ground floor area of number 11 Mary Street is in use as part of a restaurant business and extends into the adjoining property at numbers

3 and 5 Newtownsmith Street, The upper floors within Number 11 Mary Street are in use as part of the guesthouse accommodation, which is the subject of this appeal, I consider that the physical impact of the works to be slight, given no external walling was removed or altered to accommodate the works. I am also satisfied that the changes made are reversible (in accordance with Section 7.12 of AHPG's), if necessary, and therefore, would be in accordance with a key principle set out within the Architectural Heritage Protection Guidelines (AHPG's). I note that the City Conservation Officer has not commented on the proposals and that the Department of Housing Heritage and Gaeltacht did not raise any issues in relation to architectural heritage.

- 7.4.3 The visual impact of the works is negligible, and I am satisfied that the works have not adversely impacted the character or special interest of Number 11 Mary Street. The changes are not evident from the public areas of the streetscape. I also note that the works are not visible externally from either Mary Street or from Newtownsmith Street, and therefore, I am satisfied that no adverse impact arises on the character or setting of the city core ACA.
- 7.4.4 Therefore, on balance, I am satisfied that the works would not have an adverse impact on the architectural integrity of number 11 Mary Street nor the city centre core ACA. The proposals are considered to accord with Conservation Principle 7.3 of the (AHPG's), in terms of keeping a building in use and principle 7.7 in terms of minimal intervention, and are therefore, considered to be acceptable from an architectural heritage perspective.
- 7.4.5 In relation to archaeological remains on the site, the applicants submitted an Archaeological Heritage impact Assessment (AHiA) as part of their planning documentation. The appeal site is located within an area of constraint for the historic town of Galway (GA094-100), but no recorded monuments are recorded within the site. The AHiA sets out that an initial inspection was conducted when the adjoining structure at number 5 Newtownsmith Street was being demolished in 2022. The demolition and associated ground disturbance was archaeologically monitored under licence number 22E0181. The archaeological monitoring revealed no finds or features or archaeological significance. The removal of the northern gable of number 5, provided visibility of number 7, also known as (5A) Newtownsmith Street, which is

proposed to be demolished under the current proposals. A draft plan of the building was generated with the assistance of a local architect.

- 7.4.6 Historical mapping from 1795 indicates that number 5 Newtownsmith street operated as a photographic shop with a dark room at the rear for the development of film. The outline of 5A is apparent, but no details of use are recorded.
- 7.4.7 Archaeological investigations have taken place in the area of number 7 Newtownsmith Street and archaeological monitoring of ground disturbance at number 3 Newtownsmith Street and number 11 Mary Street on foot of planning reference number 19/157 revealed a 19/20th century cobbled yard to the rear of the buildings, including to the rear of number 5. Three linear trenches were dug and investigated and monitoring revealed 19th and 20 century glass and pottery fragments. No finds or features of archaeological significance were recorded during the monitoring of ground disturbance during the demolition of number 5. At first floor level a 19th century fireplace was uncovered on the western gable.
- 7.4.8 It was recommended that any works at 5A would require a detailed archaeological/architectural heritage assessment and that the building should be recorded in detail. Following consultation with the Galway City Heritage Officer, it was recommended that the northern gable wall of number 5 which was removed should be rebuilt with stone recovered from the site. Safety issues and the precarious nature of the structure meant that the conducting of a detailed internal examination was not possible.
- 7.4.9 The building at number 7 Newtownsmith Street is described a two-storey building of stone construction with an external render and gable roof. The building was constructed over a narrow river channel and was used to harness energy from the water channel. The original east wall of the building no longer survives, having been demolished as part of the construction of the adjoining guesthouse development. The other wall survived; however, the walls are not bonded together. The ground floor level does not have a floor, and the river channel has been filled with rubble. A number of thick wooden planks that supported the floor and possibly the mechanism for a turbine area that survived. The existing doorway which is off centre appears to be a later insertion with evidence of a stone arch, indicating the door was previously at a different location. Only a few stones of the stone arch survive. Other ground

floor features that survive include a box niche, in the western wall, a fireplace in the eastern wall and a blocked-up opening in the southern wall, wooden beams support the first level of the building and there are blocked up openings in the southern and western first floor walls,

- 7.4.10 The applicants set out that following consultation with the City Heritage Officer, it is recommended that the roof be removed separately and the bailing levels demolished course by course with all architectural fragments recorded and retrieved for storage.
- 7.4.11 The Heritage Officer within the City Council did not make any comments in relation to the proposals, The department of Housing, Heritage and the Gaeltacht similarly did not raise any objections subject to a method statement being submitted in terms of the recording of any archaeological remains and for the demolition works at number 7 Newtownsmith Street. These are matters that can be addressed by means of an appropriate planning condition.
- 7.4.12 In conclusion, I am satisfied that the demolition of number 7 Newtownsmith Strret can occur subject to strictly adhering to the recommendations set out within the Archaeological assessment submitted. I note that these recommendations are supported by the Department of Housing, Heritage and Local Government subject to the works being carried out in accordance with best practice archaeological monitoring principles and are, therefore, considered to be acceptable from an archaeological heritage perspective.

7.5 Neighbouring Amenities

- 7.5.1 An observation was received from the resident's association of Bowling Green, a residential area located west of the appeal site. The dwellings within Bowling Green do not have a direct aspect towards the appeal site. The observers reference the adjoining residential zone which incorporates the surface car park on the opposite side of Newtownsmith Street from the appeal site and the Bowling Green streetscape. However, the appeal site is located within a city centre zone. Therefore, it is against this land use zoning objective and development management criteria

associated within a city centre zone that the current proposals must be assessed, albeit that regard will be had to adjoining amenities and uses.

7.5.2 The observers set out that the increased provision of guesthouse accommodation would not be appropriate within a residential zone. It is clear that there are a number of commercial uses within the buildings adjacent to the subject site, a fact that is acknowledged within the third-party observation. The adjacent uses include a restaurant, a late-night bar and a body piercing/tattoo business. All of these commercial uses are compatible within a city centre zone. The guesthouse use is also compatible within a city centre zone as set out within Section 7.1 above. The guesthouse use is stated to be long established on this site. There are no policies or objectives within the current City Development Plan that restrict the guesthouse use or the quantum of guest bedrooms to be provided within a guesthouse business. Therefore, I am satisfied that the guest house use is appropriate at this location within the city centre. Neither is there any stipulation within the Development Plan requiring that accommodation be provided specifically for foreign or domestic visitors to the city.

7.5.3 I am satisfied that the relatively modest scale of the guesthouse use, providing seventeen bedrooms and ancillary guest uses and the complementary ground floor restaurant use would not adversely impact upon the amenities of the neighbouring property owners.

7.5.4 In conclusion, based on the information set out above, I am satisfied that the development does not significantly adversely impact upon the amenities of neighbouring properties.

7.6 Other Issues

7.6.1 The proposals will provide for the restaurant and guest house uses to be compliant with current planning, building and fire regulation standards. The issue of compliance

with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

7.6.2 The observers raise the issue of potentially adversely impacting upon properties to rear of number 12 & 13 Mary Street. The rear (east) of the subject site adjoins a surface car park area associated within the secondary school, located north of the subject site. There are two terraced buildings (numbers 12 and 13 Mary Street) that adjoin number 11 Mary Street. The scale and proportions of interventions at number 11 are minimal but complementary to the scale and proportions at numbers 12 and 13 Mary Street. No observations were received by the Planning Authority during the course of the planning application or by the Board as part of this appeal from the property owners with numbers 12 and 13. I am satisfied that the development does not adversely impact the amenities of the residential and commercial property owners within numbers 12 and 13 Mary Street. I also consider that a three-storey building is appropriate within this city centre zone and precedent for same exists within the permitted adjacent 'Abhainn na mBradán' mixed use development, north-west of the subject site and also within Abbeygate Street, across the street from number 11 Mary Street.

7.6.3 Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Section 34(13) of the Planning and Development Act 2000 (as amended) states: A person shall not be entitled solely by reason of a permission under this section to carry out any development. I am satisfied that the provisions outlined above give the Board sufficient comfort to permit the alterations to the commercial building as proposed.

8.0 Appropriate Assessment.

8.1 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 75 metres east of the nearest European site, namely the River Corrib Special Area of Conservation (site code 000297) and approximately 450 metres east

of the Inner Galway Bay Special Protection Area (SPA) (site code 004051) and the Galway Bay Special Area of Conservation (SAC) (site code 000268). The development description was set out within Section 2 of the report above. No nature conservation concerns were raised in the planning appeal.

8.2 Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows.

- The modest scale of the works proposed.
- The separation distance from the nearest European site and the lack of hydrological or ecological connectivity to any Natura 2000 site.
- Taking into account screening determination prepared by the Planning Authority.

8.3 I conclude, that on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and,

therefore, Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

9.0 Recommendation

I recommend that planning permission for the retention of retention and completion of change of use of dwelling house granted permission under reference number 21/305 to guesthouse accommodation and amalgamation into mixed-use guesthouse and restaurant building granted permission under planning reference 19/157, alterations to elevations permitted under planning reference numbers 19/157 and 21/305 and permission to demolish existing single storey building at number 7 Newtownsmith Street be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the "City Centre" land zoning objective that pertains to the subject site, the pattern of development in the city centre area, it is considered that, subject to compliance with the conditions set out below, that the change of use and rear extensions sought to be retained, nor the proposed demolition works, do/would not adversely impact upon the archaeological/architectural heritage of the city, that the design alterations are acceptable and that the works have nor and would not adversely impact upon the neighbouring amenities within the city centre. The development is therefore, considered to be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be retained, completed and carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 12th day of October 2023, and those submitted to the Board on the 5th day of January 2024, 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. Final details of the materials, colours, and textures of all the external finishes of the development, shall be submitted to, and agreed in writing with the planning authority within one month of this grant of planning permission.

Reason: In the interest of visual amenity.

- 3 (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roof, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) Water supply and drainage arrangements, including attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of proper planning and sustainable development.

- 4 Details of external signage shall be agreed in writing with the Planning Authority within one month of this grant of planning permission.

Reason: In the interest of visual amenity and architectural heritage.

- 5 The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of public health.

- 6 Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 7 The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste. The plan shall include the location of any and all archaeological or cultural heritage constraints relevant to the development as set out within the Archaeological Assessment and as may be identified during demolition and/or groundworks.

Reason: In the interests of public safety and residential amenity.

- 8 All public roads and footpaths shall be maintained free from dirt and debris during construction. Any damage to the public road or footpath shall be repaired by the developer at his/her own expense to the satisfaction of the Local Authority.

Reason: In the interests of public safety.

- 9 (1) The developer shall ensure that all mitigation measures in relation to archaeological and cultural heritage as set out in pages 34 and 35 of the Archaeological Assessment Report , prepared by Throughtime Ltd and submitted to the Planning Authority on the 12th day of October 2023, as part of their planning documentation shall be implemented in full except as may otherwise be required to comply with the conditions of this permission. In this regard the developer shall engage a suitably qualified (licensed eligible)

archaeologist to monitor (licensed under the National Monuments Acts) to conduct the following:

(a) To carry out a measured buildings survey of number 7 Newtownsmith Street using appropriate non-intrusive and non-risk methods e.g. LIDAR in advance of any demolition works.

(b) To monitor all demolition works and ground disturbance required for the demolition, including the breaking and removal of floor slabs/surfaces, levelling of ground, removal of basal rubble. No demolition or groundworks shall take place in the absence of the archaeologist without his/her express consent.

c) Carry out, where appropriate sampling of archaeological fabric/material with a view to dating such material e.g. timber/mortar sampling for dendrochronology and/or radiocarbon dating.

d) the developer shall facilitate the identification, recoding, retrieval of all architectural fragments within the development site, in consultation with the Galway City Heritage Officer, appropriate reinstatement and /or storage of same.

(2) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [preservation in-situ/excavation].

(3) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the

National Monuments Service, shall be complied with by the developer.

(4) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring, and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

- 10 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 prior to commencement of development 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.

Fergal Ó Bric
Planning Inspectorate

30th day of October 2024