

L. Quinn  
L. Clarke

**Patrick Buckley**

---

**Fr:** Bord  
**Sent:** Monday 20 September 2021 18:01  
**To:** Appeals2  
**Subject:** FW: Senior Executive Planners Report on ABP 3311177-21  
**Attachments:** SKM\_C450i\_P21092017430.pdf

---

**From:** Lisa Martyn <Lisa.Martyn@galwaycity.ie>  
**Sent:** Monday 20 September 2021 17:52  
**To:** Bord <bord@pleanala.ie>; Mark Lawlor <m.lawlor@pleanala.ie>  
**Subject:** Senior Executive Planners Report on ABP 3311177-21

Dear Bord,

Please see attached submission / comments made by the Senior Executive Planner on appeal ref. ABP 3311177-21.  
Also please attached to the email X3 appendices.  
#Note a copy is sent via post.

Kind Regards,  
Lisa Martyn.

Planning Department / An Rannóg Pleanála  
Galway City Council / Comhairle Cathrach na Gaillimhe  
City Hall / Halla na Cathrach  
College Rd / Bóthar an Choláiste  
Galway / Gaillimh

Telephone: 091 536 599 || Web: [www.galwaycity.ie](http://www.galwaycity.ie)

**From:** [noreply@galwaycity.ie](mailto:noreply@galwaycity.ie) [<mailto:noreply@galwaycity.ie>]  
**Sent:** 20 September 2021 18:43  
**To:** Lisa Martyn <[Lisa.Martyn@galwaycity.ie](mailto:Lisa.Martyn@galwaycity.ie)>  
**Subject:** Message from KM\_C450i\_Planning Galway City Council

---

Tá fáilte roimh chomhfhreagras i nGaeilge nó i mBéarla.

Correspondence is welcome in Irish or in English.





Comhairle Cathrach na Gaillimhe  
Galway City Council

Halla na Cathrach  
Bóthar-an-Chláiste  
Gaillimh  
H91 X4K8

City Hall  
College Road  
Galway  
H91 X4K8

**Our Ref:** LB/LM P/DC/3/15/21

**Your Ref:** ABP-3311177-21

Mr. Mark Lawlor,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1.

20<sup>th</sup> September 2021,

**For the attention of Mr. Lawlor,**

**Re: Planners Submission on Appeal ABP-3311177-21**

P/DC/3/15/21

Site of development: Capital Turkish Kebab House, Eglinton Court, Eglinton Street, Galway, H91XF3X.

Description: The works involve the removal of an existing extract duct system (Planning Ref. No: 06/41 Refers) and the Installation of new filtration unit and ancillary mechanical & electrical works.

Zoning: City Centre (CC) – Objective ‘CC’ – To provide for city centre activities and particularly those, which preserve the city, centre as the dominant commercial area of the city.

Dear Mr. Lawlor,

The following are the observations of Galway City Council in relation to the above appeal: I refer to the First party appeals by Reid Associates on behalf of Capital Kebabs, Eglinton Street against Galway City Councils decision to Refuse a declaration for the above development with conditions.

Many of the issues raised were considered as part of the planning assessment and are addressed in the Planning report. However the City Council would address the following.

The appellant contends that planning reference 06/41 was never implemented and was not therefore subject to a condition.

However this is not the case. Planning permission was sought under planning reference 06/41 by the applicant to “retain and make alterations to existing extraction/ventilation system to include construction of stack to rear and retention of

Fáiltear roimh chomhfhreagras i nGaeilge / Correspondence in Irish is welcome

Seirbhísí Custaiméara / Customer Service (091) 536400

Rphost / Email customerservice@galwaycity.ie • Gréasán / Web www.galwaycity.ie

gas storage compound to rear yard”

See Appendix 1 for Decision

This was a permission to retain a development it had already commenced and the Planning authority were within its rights to apply a five year limit to the permission for the retention.

The appellants failed to reapply for the development which was permitted and it therefore became an unauthorised structure.

It should also be noted that this application itself followed an earlier application under planning reference 111 of 2000 where planning permission was refused on 19th April 2000 to

Permission to retain existing extraction/ventilation system to roof level

For the following reason

1) The development to be retained which consists of extraction and ventilation system for a restaurant is located adjoining amenity space and entrances to apartments. The development, due to the noise and smell emanating from the extraction and ventilation system, causes serious loss of residential amenity for the surrounding properties and is therefore contrary to the proper planning and development of the area.

See Appendix 2 for Decision

A subsequent application under 00/716 was granted on 20th December 2001 for a two year period for

Permission to retain and make alterations to existing extraction/ventilation system to include construction of extract stack to rear

See Appendix 3 for Decision

However the fact that the 00/716 permission expired in 2003 and the permission for the existing ventilation equipment approved in 2006 expired in 2011 means that the current system is unauthorised. Article 9 (1) (viii) of the Planning and Development Regulations 2001 de-exempts works which

consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

In conclusion Galway City Council would request that An Bord Pleanala would uphold the Council’s decision and declare that the

The proposed works comprising the removal the existing extract duct system and the installation of new filtration unit and ancillary mechanical & electrical works

Are NOT exempted development for the following reason

1 As the permission for the existing ventilation equipment expired in 2011 and is therefore unauthorised, its replacement or renewal is de-exempted under

Article 9 (1) (viii) of the Planning and Development Regulations 2001 which de-exempts works which

Consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

Planning permission is therefore required for the above proposed works.



---

**Mr. Liam Blake,  
Senior Executive Planner,  
Planning Department.**

**GALWAY CITY COUNCIL**

APPEAL ①

**PLANNING AND DEVELOPMENT ACTS, 2000-2004**

**NOTIFICATION OF GRANT UNDER SECTION 34 OF THE 2000 ACT**

To: City Foods Ltd.,  
c/o O' Donnellan & Co. Architects,  
Eglinton House,  
Eglinton Street,  
Galway.

Ref. No. in Planning Register: 06/41

Date of Receipt of Application: 23/01/2006

In pursuance of the powers conferred upon them by the above mentioned Acts, Galway City Council, being the Planning Authority for the City of Galway have by order dated 24/4/06 granted RETENTION to the above named for development of land, namely:-

Permission to retain and make alterations to existing extraction/ventilation system to include construction of stack to rear and retention of gas storage compound to rear yard

at 7 Eglinton Street, Galway

in accordance with all documentation lodged in respect of this application, including those submitted on 23/01/2006, and subject to the conditions set out in the schedule attached hereto.

Signed on behalf of Galway City Council: Jean Kennedy  
Administrative Officer.

Date: 24/4/06

---

**It should be noted that a grant of Outline Permission is subject to permission consequent on the grant of outline permission.**

**Pursuant to Section 40 of the above Act, a permission will expire five years from the date on which it is granted.**

**Pursuant to Section 36 of the above Act, permission consequent on the grant of outline permission must be submitted within 3 years from the date of outline permission unless otherwise stated by condition on the decision.**

1. The development shall be carried out and completed in accordance with the application made on 23/1/06 but subject, however, to the requirements of the further conditions hereinafter incorporated.

**REASON:**

To ensure that the development is carried out in accordance with the permission and that effective control is maintained

2. The development hereby permitted shall be removed within five years of the date of grant of planning permission, unless further planning permission for the development is granted before that date.

**REASON:**

In order to access the effectiveness of the proposed equipment.

3. Surface water run-off associated with this development shall not be permitted to discharge onto the public road or footpath.

**REASON:**

In the interest of the proper planning and development of the area.

4. All of the requirements of the Sound Consultant's report (report Ref. 243) submitted on 23/1/06 shall be carried out and these works together with such other works as necessary shall be such that the insulation of the development against the transmission of sound and the activities carried out therein shall not make or cause to be made any noise or vibration which is so loud, so continuous or so repeated or of such duration of pitch or at such times as to give reasonable cause for annoyance to persons in any premises in the neighbourhood or to persons lawfully using any public place.

**REASON:**

To prevent annoyance by reason of noise to occupants of nearby premises and to safeguard the amenities of the area.

\*\*\*\*\*

APPENDIX (2)

**GALWAY CORPORATION  
PLANNING AND DEVELOPMENT**

**To: CITY FOODS LTD  
C/O: Rory O'Donnellan & Co Architects  
Eglinton House  
Eglinton St  
Galway**

**Manager's Order No PL..... 34871  
Ref. No. in Planning Register: 111/00  
Date of Receipt of Application: 25/02/2000**

**Pursuant to the Local Government (Planning and Development) Acts, 1963 to 1993**

**I hereby decide to refuse to grant Permission to the abovenamed for development of land namely:-**

*Permission to retain existing extraction/ventilation system to roof level*

*at: No 7 Eglinton Street, Galway*

in accordance with all documentation lodged in respect of this application, including those submitted on 25/02/2000, for the reasons set out in the Schedule attached hereto.

**Signed:** *M. Mason*  
**D / G** Galway City Manager and Town Clerk.  
**Date:** 19.4.00



SCHEDULE REFERRED TO IN MANAGER'S ORDER NO.

34871

PLANNING REGISTER REFERENCE NO.

111/00

1) The development to be retained which consists of extraction and ventilation system for a restaurant is located adjoining amenity space and entrances to apartments. The development, due to the noise and smell emanating from the extraction and ventilation system, causes serious loss of residential amenity for the surrounding properties and is therefore contrary to the proper planning and development of the area.

SIGNED: m. maloney  
D/GALWAY CITY MANAGER.

DATE: 19. 4. 00

APPENDIX (3)

**GALWAY CORPORATION**

**LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1993  
NOTIFICATION OF DECISION UNDER SECTION 26 OF THE 1963 ACT**

To: CITY FOODS LTD.,  
C/O: O'Donnellan & Co. Arch. Ltd.,  
Eglinton House,  
Eglinton Street,  
Galway.

Ref. No. in Planning Register: 716/00

Date of Receipt of Application: 11/10/2000

In pursuance of the powers conferred upon them by the abovementioned Acts, Galway Corporation, being the Planning Authority for the County Borough of Galway have by order dated 20/12/01..... decided to grant Full Permission to the above named for development of land, namely:-

*Permission to retain and make alterations to existing extraction/ventilation system to include construction of extract stack to rear*

at: No. 7, Eglinton Street, Galway.

in accordance with all documentation lodged in respect of this application, including those submitted on 11/10/2000, 02/11/2001 and subject to the conditions set out in the schedule attached hereto.

Signed on behalf of Galway Corporation: U. Langan  
Administrative Officer.

Date: 20/12/01

**This notice is not a grant of Permission/Outline Permission/Approval.**  
It should be noted that until a grant of Permission/Approval has been issued, the development in question is **Not Authorized**  
If there is no appeal, a grant of Permission/Outline Permission/Approval will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanála.

**N.B. DETAILS OF THE APPEALS PROCEDURE ARE SET OUT IN THE ATTACHED LEAFLET.**

SCHEDULE REFERRED TO IN MANAGER'S ORDER NO. 40254

PLANNING REGISTER REFERENCE NO. 716/00

- 1.) The development shall be carried out and completed in accordance with the application made on 11.10.00, as revised and amended by drawings and letter submitted on 02.11.01. but subject, however, to the requirements of the further conditions herein after incorporated.

**REASON:**

To ensure that the development is carried out in accordance with the permission and that effective control is maintained

- 2.) The proposed 8 metre stacks shall be reduced in height to 6.5m and the effective height shall be maintained at 8 metres by a combination of thermal and exit velocity effect as stated on letter submitted on the 19.11.01.

**REASON:**

In the interest of the visual amenity of the area.

- 3.) This permission shall be for a temporary period of 2 years only, commencing on the date of final grant of permission, at the end of this period, the equipment shall be removed, unless a further permission has been granted for its continuance on site.

**REASON:**

In order to assess the effectiveness of the proposed equipment.

SIGNED: Claire Hayes  
Director of Services  
Housing, Economic Development & Planning.

DATE: 20/12/01

