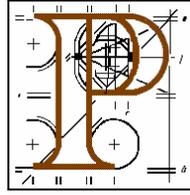


An Bord Pleanála



Inspector's Report

PL29S.238504

Proposed Development: Permission is sought for internal alterations to No. 34 College Green (a Protected Structure) on ground, mezzanine and upper floor level. Permission is also sought for the refurbishment of 1st, 2nd and 3rd floor level of No. 35 College Green (a Protected Structure).

Location of Development: No. 34 to 35 College Green, Dublin 2.

Planning Application

Planning Authority:	Dublin City Council
Planning Authority Reg. Ref:	4030/10
Applicant:	Pextell Limited
Type of Application:	Planning Permission
Planning Authority Decision:	Grant with conditions

Planning Appeal

Appellant:	Pextell Limited
Appeal Type:	1 st Party-Vs-Condition No. 10
Observer(s):	None received.
Date of Site Inspection:	6 th April, 2011

Inspector: Patricia M. Young

Appendices: **Appendix 1** – Site Location
Appendix 2 – Extracts from Development Contribution Scheme

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is located on the southern side of College Green approximately 45-meters to the west of the principal gates of Trinity College in the heart of Dublin's city centre. The site contains an attractive and ornate 4-storey over basement period building whose original design can be traced back to William Barnes and Isaac Farrell and comprises of No.s 34 and 35 College Green. The original building dates back to circa 1842 and was designed as a standalone building. Since its construction this building and its setting has been much altered and modified. According to the Conservation/Restoration Report the interior of the building dates to the late 19th Century and much of this internal built fabric survives to the present day. The building was used as a bank up until circa 2002 and in 2005 the building was converted to retail use. Except for the 2nd and 3rd floor levels of No. 34 College Green which are in office use the building appears to have remained largely unoccupied from 2008 to the present day.

2.0 PROPOSED DEVELOPMENT

- 2.1 Planning permission is sought for internal alterations to No. 34 College Green and the refurbishment of No. 35 College Green, both designated 'Protected Structures'. The alterations sought for No. 34 College Green may be summarised as follows:-

- Removal of two non original internal staircases and balustrades;
- Demolition of a section of non original mezzanine and erection of two new mezzanines with balustrade to match new staircases;
- Removal of section of floor to allow for new staircase;
- Alterations to non original internal columns to match original;
- Removal of selected sections of internal wall openings and the creation of new openings in some internal walls;
- Replacement of recently installed roof lights with solid infill at ground floor ceiling level height;
- Removal of non original partitions and doors from upper floor levels and replace with some internal partitions; &
- Repair and reinstate original features where necessary.

The alterations sought for No. 35 College Green consist of the refurbishment of the 1st, 2nd and 3rd floor levels including removal of non original internal partitions, doors and screens. It is stated that these works are associated with the use of the space as a retail unit.

3.0 PLANNING AUTHORITY'S DECISION

- 3.1 The Planning Authority issued a notification to grant permission subject to 10 no. relatively standard conditions. Of relevance to this appeal Condition No. 10 requires the developer to pay to the Planning Authority a sum of €29,749.44 in respect of public infrastructure and facilities provided by the City Council which would benefit the proposed development. This Section 49 financial contribution is specified to relate to the provision of Metro North by the City Council and all new developments which are located in the Metro North area.

3.2.0 Departmental Reports

3.2.1 Planning: The Planning Officers Report raised no particular objection to the proposed development and concluded with a recommended for a grant of permission.

3.2.2 Conservation: The Conservation Officer's Report raised no particular objection to the proposed development subject to the inclusion of number of recommended none standard conditions.

3.2.3 Engineering: The Engineering Department raised no particular objection to the proposed development subject to the inclusion of a number of recommended conditions.

4.0 RELEVANT PLANNING HISTORY

4.1 The Subject Site

- **P. A. Reg. Ref. No. 10/3719:** Planning permission was **granted** subject to conditions for a development consisting of the change of use of the 1st and 2nd floor of both No. 34 and No. 35 College Green together with the removal of the toilet and storeroom structures on remaining mezzanine area and the cleaning of the front façade of No. 34 College Green.
- **Note:** The Planning Authority has forwarded copies of the recent planning history relating to the subject property. I have noted the planning history of the subject premises and these are available to view on file.

5.0 PLANNING CONTEXT

5.1.0 Dublin City Development Plan, 2011-2017

5.1.1 The appeal site is governed by the policies and provisions contained in the Dublin City Development Plan, 2011-2017. The indicative land use zoning objective for the site under the City Development Plan is 'Z5' "*to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity*". The subject premises, No. 34 and 35 College Green are designated protected structures and form part of a larger streetscape that contains a significant number of protected structures and that is afforded protection by way of its designation as a conservation area. The relevant sections of the City Development Plan are attached.

5.2.0 National Policy Context

5.2.1 Architectural Heritage Protection Guidelines, 2004

These Guidelines are issued under Sections 28 and 52 of the 2000 Act, and the Board is required to have regard to them in the performance of its functions. Part 1 includes advice on what should be included with an application for development involving a Protected Structure or building within an Architectural Conservation Area and advice on making a decision on such applications. Detailed guidance is contained in Part 2 on factors to be considered when assessing proposals for demolition, partial demolition, extensions, new structures and so forth. This includes general advice on conservation principles, use of experts and good conservation practice.

6.0 GROUNDS OF APPEAL

6.1 The grounds of this 1st Party appeal may be summarised as follows:-

- The Planning Authority has misapplied the Development Contribution Scheme by way of miscalculating the floor area involved with this application.
- Permission was granted to convert the ground floor of No. 34 to retail use and the subject premises was used by habitat for many years.
- Permission was recently granted for the change of use of the 1st floor and 2nd floor level of both buildings from offices to retail and to remove part of the 1st floor mezzanine in order to create a single large retail unit on all 3 floors (Ref. P.A. Ref. No. 3719/10).
- This change of use has attracted an international retailer and the current application consists of a number of internal decorative alterations, removal of the remaining mezzanine and the construction of a new mezzanine.
- It is argued that the Planning Authority under Condition No. 10 has incorrectly calculated the Section 49 levy based upon a floor area of 798-sq.m. by the standard charge of €37.28. This resulted in a figure of €29,749.44. However, the area applied for under this application is a significantly lower figure of 188-sq.m. This lower figure is evident in the planning application form and the submitted documentation.
- A detailed outline of the proposed development works is provided and it is argued that the application sought consisted of physical alterations and refurbishment work to the subject premises. These works require permission as a result of their protected structure status.
- The new floor area totals 188-sq.m. and relates to the new mezzanine level and takes account of the 87-sq.m. proposed for demolition. It is argued that this floor area should be the basis of the calculation and Condition No. 10 should be amended accordingly.

7.0 RESPONSES

- 7.1 The Planning Authority's response may be summarised as follows:
- The Planning Authority accepts that the 798-sq.m. appears to relate to the previous application for change of use.
 - If this application is confined to the development of 188-sq.m. then this would be the correct figure to be levied at the appropriate rate.
- 7.2 The 1st Party's response to the Planning Authority's response to the grounds of this appeal may be summarised as follows:
- In reference to the response received from the Planning Authority it is accepted by the Planning Authority that the proposed development is largely for internal alterations with only 188-sq.m. of development proposed and that this figure should be the basis of the calculation.
 - The applicant is willing to contribute to this s49 levy at the appropriate rate.

8.0 ASSESSMENT

- 8.1 This 1st Party appeal relates solely to the requirements of Condition No. 10 of the notification to grant permission for a development described under Section 2 of this report. The appellant in their grounds of appeal submission submits that the Planning Authority has not properly applied their Supplementary Development Contribution Scheme for Metro North in relation to the proposed development as it is submitted by them that the Planning Authority has failed to take account of the fact that this application relates to the provision of an additional floor area of 188-sq.m. only and the other works proposed by way of this application consist of mainly decorative alterations and refurbishment works to the subject premises which require planning permission as a result of No. 34 and No. 35 College Green being designated 'Protected Structures'. The appellant therefore requests the Board to amend Condition No. 10 of the Planning Authority's notification to grant permission so that it accurately reflects the actual development sought and not the higher floor area related to the previous application for the subject premises which consisted of its change of use (See Section 4 above).
- 8.2 The Planning Authority in their response to the grounds of this appeal have acknowledged that if the proposed development is confined to the development proposed of 188-sq.m. of additional floor as indicated in the documentation submitted with this current application then this is the correct figure to use in the calculation of their Supplementary Development Contribution Scheme and not the 798-sq.m. which they accept relates to the previous application for the change of use of the subject premises.
- 8.3 Having examined the grounds of this appeal, the responses received by the Board in relation to this appeal and the development sought by way of this current application I am satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted.
- 8.4 Also having regard to the current Dublin City Councils Supplementary Development Contribution Scheme I would consider that the Planning Authority

has incorrectly calculated the supplementary financial contribution applicable to the development sought under this application. Further, I would consider that the appropriate calculation should be based upon the new development sought which as indicated in documentation submitted and as acknowledged by the Planning Authority relates to 188-sq.m. of additional floor area to the subject premises. Moreover, I would concur with the appellant in that the remainder of the development works sought under this application relate to mainly decorative alterations, restoration and refurbishment of No. 34 and No. 35 College Green and as previously stated such works while requiring planning permission do not warrant the payment of additional supplementary contributions.

- 8.5 Based on the above I would consider that as the subject premises is located within the identified area for which a supplementary contribution financial contribution towards the cost of the provision of Metro North is requirement for all new development that the applicable floor area for which this contribution should be calculated on is 188-sq.m. It would also appear that since this scheme has been adopted that the €32.20 per square meter of retail use supplementary development contribution levy has increased yearly to the current charge of €37.28 per square meter of retail use. The amount of increase is set out under Section 10 of the Scheme. I would therefore consider that the appropriate calculation for the proposed development should be as follows:

Retail Floor Area (sq.m.)	Cost per sq.m.	Total
118	€37.28	€7,008.64

- 8.6 In conclusion I would recommend that the Board amends Condition No. 11 based on the above calculation for reasons relating to the above calculation is the correct calculation of the supplementary financial contribution for all new developments identified as being located within the Metro North area under the current scheme. Moreover, it is unreasonable for the Planning Authority to base their calculation of the supplementary financial contribution on a floor area that does not relate to the development sought and that appears to relate to the change of use floor area previously permitted under P.A. Reg. Ref. No. 10/3719.

9.0 RECOMMENDATION

- 9.1 Having regard to the nature of Condition No. 10 which is the subject of this appeal, I am satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below (1) I recommend that the Board direct the said Council under subsection (1) of Section 139 of the Planning and Development Act, 2000, as amended, to **AMEND Condition No. 10** as set out below (2).

REASONS AND CONSIDERATIONS (1)

Having regard to the current Dublin City Council Supplementary Development Contribution Scheme for Metro North St. Stephen's Green to City Boundary at Ballymum it is considered that the terms of the Development Contribution Scheme were incorrectly applied by the Planning Authority insofar as the proposed development is subject to financial contributions, however, considering that this scheme will be applied to all new developments made to the Council which are located within the identified Metro North area map in this scheme it is considered appropriate to amend Condition No. 10 from the Planning Authority's Schedule of Conditions so that it accurately reflects the actual floor area of new development sought by way of this application. The sum of the appropriate supplementary development contribution has been recalculated on this basis, hence the direction to amend the figure stated under Condition No. 10.

CONDITION NO. 10

The local authority shall be directed to **amend** the wording for the aforementioned Condition No. 10 as set out below:

Before this development commences a financial contribution in the sum of **Euro 7,008.64** shall be paid by the applicant to Dublin City Council under Section 49 of the Planning and Development Act 2000-2010. This contribution applies to all new developments which are located in the Metro North Area, and is in addition to the contribution required in accordance with the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000-2010.

Reason: Investment by Dublin City Council in public infrastructure and facilities that has been provided, and will be provided for the benefit of the proposed development.

Patricia M. Young
Planning Inspector
7th June, 2011.