



Development	Amendments to reg.ref:3040/17 (ABP-300914-19) and includes replacement of green-wall finish on parts of south/east facing rear elevations and change of use from plant enclosure to office
Location	Seagrave House, (No.'s 19-20 Earlsfort Terrace) Dublin 2 (D02 EN84) and Davitt House (No. 65 Adelaide Road), Dublin 2 (D02 TW27)
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3984/19
Applicant(s)	Irish Life Assurance PLC.
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Kevin Woods and Charlotte Sheridan.
Observer(s)	Earl Court Management DAC.
Date of Site Inspection	10th March 2020

Inspector

Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of 0.286 hectares occupies approximately half of a city block bordered by Hatch Street Lower to the north, Adelaide Road to the south, Earlsfort Terrace to the west and Hatch Place (occasionally referred to as Hatch Lane) to the east. The site lies within an area approximately 500m south of St Stephen' Green within the central business district and within the grand canal ring. The National Concert Hall is located to the northwest. The area is varied in character with a mix of architectural styles and ages varying in terms of design, scale, form, mass and bulk from a mix of Georgian or Victorian Terraces on Adelaide Street and Hatch Street Lower and office blocks from 1960s / 70s and more recent additions including the Conrad Hotel (opposite the National Concert Hall) and Arthur Cox diagonally opposite the National Concert Hall fronting Hatch Street Lower. Traditional buildings tend to be 3-5 storeys in heights while the 1960s / 70s office blocks are generally 5-6 storeys high and more recent developments rise to 7-8 storeys. The area is predominantly in office use with some limited residential development.
- 1.2. The appeal site was formerly occupied to two 5 storey over basement office buildings *Seagrave House* and *Davitt House* both dating from the mid-1970s and which have now been demolished and construction works are currently underway on the site. A residential block of apartments, of similar design and vintage to the demolished buildings, *Earls Court* also adjoins to the south-eastern corner. There are four historic buildings to the north, including two protected structures, one of which adjoins the site. A recently constructed 7 storey office building "*Arthur Cox*" is located to the north of the site fronting Hatch Street Lower.

2.0 Proposed Development

- 2.1. The proposal involves amendments to the permitted development 3040/17 ABP300914-18 which permitted the demolition of the existing office development on the site and its replacement with a new office development. The proposed amendments include the replacement of a permitted 'green-wall' finish on parts of the south and east facing rear elevations by glazed spandrels (incorporating a frit pattern) and also proposes a change of use from 'plant enclosure' to 'office'; of an

area of c65sq.m at the 6th floor (and consequent relocation of plant to basement level).

- 2.2. The amendments also involve changes to the façade finish to the east and south facing elevations. Application details outline that the proposed glazed spandrel will incorporate a unique frit pattern designed to replicate the interest and intricacy of the originally proposed greenwall whilst providing the reflectivity and brightness to the Earl Court building.

3.0 Planning Authority Decision

3.1. Decision

By order dated 5th November 2019, Dublin City Council issued notification of its decision to grant permission and four conditions were attached.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report considers that whilst the replacement of the green wall is regrettable, it is minor in the context of the overall permitted development and does not alter the overall design intent or function of the permitted building. Amendment has only a minor impact on the external appearance of the scheme which retains its design quality.

3.2.2. Other Technical Reports

Engineering Department Drainage Division report indicates no objection subject to compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

3.3. Prescribed Bodies

Transport Infrastructure Ireland – no observations to make. Site is within area set out for Section 49 Levy Scheme for light Rail.

National Transport Authority NTA. In the event of permission, advise a condition requiring liaison with Metrolink Project Team to ensure that basement and foundation design for the proposed development is compatible with Metrolink project.

3.4. Third Party Observations

- 3.4.1 Submission by the appellants object to the omission of green wall. The design intent of the green wall was both for the protection of the amenity of existing residents and also to facilitate the integration of the proposed development to the existing area including the Harcourt Terrace Conservation Area. It would also add to city green infrastructure and biodiversity and addresses, to some extent, the omission of any meaningful public open space within the development.

4.0 Planning History

ABP-300914-18 3040/17 The Board upheld the Council's decision to grant permission for demolition of existing structures and the provision of a four to seven storey over double basement level commercial development comprising office accommodation including a surface car park and basement car park. External courtyards at ground floor and lower ground floor and all necessary ancillary works above and below ground level.

- **2758/13** Department of Enterprise, Jobs Innovation. Davitt House 65A Adelaide Road. Permission granted 12th November 2013 for the erection of new railings at basement level and car park on gate of Hatch Lane.
- **0250/09** Seagrave House 19/20 Earlsfort Terrace. Exemption Certificate August 20009 in respect of proposal to replace existing access doors and aluminium frames with similar to the front façade facing onto Earlsfort Terrace, all finishes to match existing black windows. Doors shall be similar to existing and incorporate mail boxes, keypad access and intercom system.

4.2 Adjacent development history

- **PL29S232964 / 5257/07** Adjoining to north, *Arthur Cox*. Permission to demolish 5 storey building and 2 mews houses. Erect a 9-storey building over 2 storey basement level comprising office and café refurbishment of other structures including 2 no protected structures. Condition 2b of the permission reduced the height of the building to a maximum of 7 storeys above grounds level 14,773 sq.m GFA.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Dublin City Development Plan 2016-2022 refers.

- The site is Zoned Z6 Employment / Enterprise where the land use zoning objective is “To provide for the creation and protection of enterprise and facilitate opportunities for employment creation.”
- Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long term economic development in the city region.

Other policies and objectives of the Dublin City Development Plan which are of relevance include.

▪ 15.1.1.21 SDRA 18 National Concert Hall Quarter.

“The national Concert Hall quarter (NCHQ) is uniquely positioned to develop as a distinct but connected, cultural, commercial and residential urban quarter, with its own character, identity and architecture, and by adopting an urban scale and grain that can deliver the quality and scale of commercial space required by a contemporary city.

The objectives of the NCHQ SDRA can provide for a number of significant benefits including accessibility and linkages with the Iveagh Gardens, in order to establish the area as a key cultural destination attraction in the city centre. Significant public realm and streetscape improvements, and funding for same can be delivered in an integrated manner through the SDRA designation. The SDRA can also deliver a critical mass of employment generating land uses.

Overall objectives include:

- To promote the development of vacant and under-utilised sites in the character area for high quality commercial development and other uses.
 - To promote the development of buildings of up to 9 storeys commercial to ensure critical mass is achieved to support public transport service and ensure the most efficient use of scarce urban land, subject to preparing visual impact assessments and photomontages to verify the appropriateness of any proposed development in its city wide and local context.
 - To ensure that the architectural composition and design of buildings and clusters of buildings contribute to the sense of place and identity and character of the area.
 - Any proposals for development must have regard to the existing views and vistas from the South Georgian core, while also contributing to the establishment of a distinct form, character and appearance of the National Concert Hall quarter.
- CEE 11. *“It is the Policy of Dublin City Council to promote and facilitate the supply of commercial space. Where appropriate, eg. Retail and office including larger floor plates and quant suitable for indigenous and DFDI HQ-type uses, as a means of increasing choice and competitiveness and encouraging indigenous and global HQs to locate in Dublin; to consolidate employment provision in the city by incentivising and facilitating the high-quality re-development of obsolete office stock in the city.”*
 - Policy CC3 *“To promote energy efficiency, energy conservation, and the increased use of renewable energy in existing and new developments.”*
 - Policy CC4 *“to encourage building layout and design which maximises daylight, natural ventilation, active transport and public transport use.”*
 - Objective CC012 *“To ensure high standards of energy efficiency in existing and new developments in line with good architectural conservation practice and to promote energy efficiency and conservation in the design and development of all*

new buildings in the city, encouraging improved environmental performance of building stock.”

- Policy SC7 *“It is the policy of Dublin City Council To protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence.”*
- 14.7 Transitional Zone Areas.
“In dealing with development proposals in contiguous transitional zone areas it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones.”
- Objective SIO20 *“To promote sustainable design and construction to help reduce emissions from the demolition and construction of buildings.”*
- 16.2 Design Principles and Standards.
“All development will be expected to incorporate exemplary standards of high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.

In the appropriate context, imaginative contemporary architecture is encouraged provided that it respects Dublin’s heritage and local distinctiveness and enriches its city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance. In particular, development will respond creatively to and respect and enhance its context.”
- 11.1.5.6 Conservation Area – Policy Application
“All new development must have regard to the local context and distinctiveness and the contribution to the local scene of buildings, landmarks, views, open spaces and other features of architectural, historic or topographical interest. The general design principles are set out in a separate policy but it is particularly important within Conservation areas that design is appropriate to the context and based on an understanding of Dublin’s distinctive character areas.”
- Adjacent land protected structures 17 Earlsfort Terrace RPS Ref 2420 (*Brick House, front area balustrading and walling*) and 18 Earlsfort Terrace RPS Ref 2421 (*Brick House, front area balustrading and walling*). I note a number of protected structures to the west, across Earlsfort Terrace and to the south on

Adelaide Road. Earlsfort Terrace terminates at Adelaide Road at the Adelaide Road Presbyterian Church RPS Ref 35. (*Presbyterian Church: front façade, portico steps and railings*)

5.2. Natural Heritage Designations

5.2.1 The site is not located within or directly adjacent to any Natura 2000 sites. The Natura 2000 sites within the site's potential influence are in Dublin Bay including:

- North Dublin Bay cSAC (Site Code 000206)
- South Dublin Bay cSAC (Site Code 000210)
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)
- North Bull Island SPA (Side Code 004006)

5.3. EIA Screening

5.3.1 Having regard to the limited nature of the proposed development and to the nature of the receiving environment, 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 at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Sheridan Woods Architecture on behalf of Kevin Woods & Charlotte Sheridan, 10 Adelaide Road. Grounds of appeal are summarised as follows:

- Object to the omission of the permitted green wall which is considered to be one of the better design aspects of the proposed development.

- A significant extent of commercial development has been permitted at the site and compromises to the quality of the development should not be permitted.
- Application should have been invalidated as the design facing Hatch Lane has been altered with more glazing positioned directly opposite the apartment building. Alteration to the design of this façade is not expressly mentioned in the application and will have a significant detrimental impact on the amenity of the apartments.
- Applicants claim that the proposed blank glazed 'frit' panels will allow for more reflected light to the residents of the adjoining apartment. It is submitted that this is not the real rationale for the proposed removal of the green wall, but a desire to reduce the cost which also reduces quality. Clear glazed sections of the façade to the permitted design provide ample reflected light onto the apartment building. The green wall offers a visual amenity to the apartments with the glazing offering reflected light this represents a good balance in the current design.
- The area of green wall proposed to the eastern side of the block and visible from the Eye & Ear Hospital end of Adelaide Road can offer no reflected light to the apartments as the facade of Earl Court facing this façade is blank (stairwell and lift.)
- Green wall adds positively to the streetscape the courtyard space and the wider city absorbing carbon dioxide and producing oxygen. Also provides sound absorbing qualities, health and biodiversity benefits, air quality and insulation benefits.
- Green wall visually integrates the monolithic development form into its context more readily than the development as modified.
- Omission of green wall diminishes the quality of the proposed development and will detract from the visual amenity of the building as viewed from the street and immediate context which is a conservation area.
- Many compromises have been accepted in this development and a further qualitative compromise is not acceptable and is contrary to proper planning.

6.2. Applicant Response

6.2.1 The response by Sheehan Planning on behalf of the first party includes a daylight report by IES demonstrating reflectivity benefits arising from the proposed development also a response by Henry J Lyons which addresses the amendments to the eastern façade to Earls Court. The response is summarised as follows:

- Proposed removal of green wall emerged in discussion with residents of adjacent apartment block.
- Allegation that the proposal is based on the desire to reduce the cost is entirely incorrect.
- Change to the layout of windows arises due to relocation of internal stairs and occurs only in the east facing façade at the stair locations. The effect of the change is to reduce the potential for oblique overlooking of windows in the adjacent apartment building.
- Submission of IES reviews the likely outcome in terms of reflected light enhancement. This shows an increase in reflectance (between 5% and 10%) in the event of the green wall being replaced as proposed.
- The loss of visual amenity to the apartments is counterbalanced by their desire to enhance daylight.
- In terms of wider visual amenity, the additional photomontages from Harcourt Terrace and from Adelaide Road demonstrate that the proposed change does not represent a negative effect of any significance.

6.3. Planning Authority Response

6.3.1 The Planning Authority did not respond to the grounds of appeal.

6.4. Observations

6.4.1 Observations are submitted by Earl Court Management DAC. Submission notes that the applicant engaged with Earl Court Management during the course of the previous application to discuss concerns regarding construction noise, dust and vibration, construction traffic and other related issues. The replacement of the green wall was

requested to enable apartments to benefit from reflected light. This has been the case enjoyed in relation to the adjacent Arthur Cox building where the large gable is clad in reflective panels which have significantly improved levels of light on north facing elevation. Reiterate support for the removal of green wall.

6.5. Further Responses

6.5.1 Response of Earl Court Management Company to cross circulation of the first party response indicates full agreement with the proposed amendments.

6.5.2 Response from Sheridan Woods Architecture Urban Design on behalf of the third-party appellants Kevin Woods and Charlotte Sheridan is summarised as follows:

- Alterations to the extent of fenestration is material and should have been addressed in the development description given the relationship between the proposed repositioned windows and habitable rooms.
- The improvement arising in terms of lighting levels is negligible. A 10% enhanced lighting level for a bedroom is not critical for the residential amenity of the bedroom and the projected 5% enhanced lighting to living room is also not critical for the amenity of the living room particularly given that these rooms already benefit from easterly and southerly orientated windows. Level of enhanced lighting will also be even more negligible on apartment below.
- There is no rationale for the removal of the east facing green wall.
- Benefits of the green wall far exceed the benefit of negligible increased reflected light for four apartments.
- Visual amenity offered by the green wall makes some amends to the emerging urban consolidation of this neighbourhood. Each new development results in further reduction in green spaces. Integration of design features such as the green wall offers a design tool to visually integrate the monolithic development form into its context more readily than the development as modified. This is even more critical in this location where contemporary development forms sit alongside historic contexts.

- Proposal is a retrograde step and significantly reduces the design quality of the proposed development.

7.0 Assessment

7.1. On the question of validity of the application, the third-party appellant asserts that the application should have been invalidated on the basis that the public notices do not expressly refer to proposed amendments to pattern of fenestration to the eastern elevation to Earls Court. I note that the public notices describe the proposed development as follows:

“The proposed development seeks to amend a permission granted under reg ref 3040/17 (ABP300914-18), and includes the replacement of a permitted “green wall” finish on parts of the south and east facing rear elevations by glazed spandrels (incorporating a frit pattern) and also provides a change of use from ‘plant-enclosure’ to ‘office’ of an area of c65sq.m at the 6th floor (and consequent relocation of plant to basement level). There is no change to proposed overall height or floorspace”

7.2 The first party outlines in response to the appeal that express reference to the specific fenestration amendments was an oversight and outlines the rationale for same. The first party notes that the intended revisions results in an increase in areas obscured and a reduction in potential for oblique overlooking of living areas within the Earl’s Court building. I consider that the proposed amendments are material change and would tend to concur with the third-party appellant’s that the wording of the application is inadequate and potentially misleading in respect of the full nature of development now proposed. In this regard the Board might consider a request to provide revised public notices to clarify the intended amendments.

7.3 In considering the detail of the development now proposed and the proposed replacement of the green wall which is the main issue of contention within the grounds of appeal, I consider that the green wall was indeed an interesting and innovative feature within the permitted scheme. I acknowledge the benefits in terms of visual amenity, biodiversity, air and noise climate and note the visual relief in terms

of the emerging urban context. However, I also note the support for the proposed replacement of Earls Court Management Company. Indeed, it is outlined that the amendment arises as a result of the discussions with owners occupiers of the adjacent Earl Court Building. I note that the proposed frit patterns will potentially create an element of interest in terms of the visual impact. As regards the potential to retain an element of the green wall to the east facing façade, I consider that the legibility identity of the building would not benefit from such a mixed finish. On balance, having considered the proposed amendments in detail I conclude that the proposed replacement of the green wall is acceptable, does not significantly diminish the design quality of the overall development and is in accordance with the proper planning and sustainable development of the area.

7.4 As regards the proposed relocation of windows to the east facing façade it is noted that the Architectural Design Statement submitted in response to the appeal demonstrates that the amendment involves an increase in opaque panels across the façade from 63% coverage to 66% coverage. I accept that the potential for overlooking is reduced. As regards amendments involving change of use from plant enclosure to office at sixth floor level and relocation of plant to basement no issues were raised by the parties to this element of the proposal.

8.0 Recommendation

8.1. I recommend that the Board uphold the decision of Dublin City Council to grant permission subject to the following schedule of conditions.

9.0 Reasons and Considerations

9.1. Having regard to the planning history, to the location of the development and pattern of development in the area, and to the provisions of the Dublin City Development Plan 2016-2022, to the nature, scale, layout and design incorporated in the proposed amendments to the permitted development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of adjoining properties or the visual amenities of the area it is not considered that the proposed development would be likely to have a

significant effect individually or in combination with other plans and projects on a European Site. and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and lodged with the application, 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 21st day of November 2018 under reg ref no ABP300914-18 and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to and agreed in writing with, the planning authority.

Reason: In the interest of the visual amenities of the area.

4. 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.

- 5 The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the Planning Authority under Section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Brid Maxwell
Planning Inspector
10th March 2020