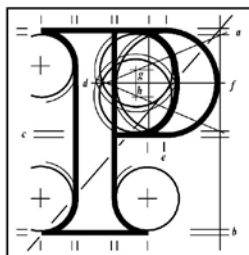


## An Bord Pleanála



### Inspector's Report

**An Bord Pleanála Ref.:** PL29S.246100

**Development:** Retention of Signage within Lobby at St. Stephen's Green Shopping Centre, Dublin 2.

#### Planning Application

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref.: 3975/15  
Applicant: Irish Life Assurance PLC and Ventasker Ltd  
Planning Authority Decision: Refuse Permission

#### Planning Appeal

Appellant(s): Irish Life Assurance PLC and Ventasker Ltd  
Type of Appeal: First Party  
Observers: None  
Date of Site Inspection: 28<sup>th</sup> of April 2016  
**Inspector:** Angela Brereton

## 1.0 SITE LOCATION AND DESCRIPTION

The site is within the St. Green Shopping Centre, a 6 storey over basement shopping complex on the north-western corner of St. Stephen's Green. The block is bounded to the north by King Street South, Stephen's Green West to the east, to the west by Mercer Street Lower and Glover's Alley to the south.

This application relates to the signage for retention on the main entrance to the Shopping Centre which opens onto the intersection of Grafton Street, King Street South and St. Stephen's Green North and West. It is opposite the main entrance to St. Stephen's Green.

## 2.0 RETENTION DEVELOPMENT

This application seeks the retention of development at the main (St. Stephen's Green/Grafton Street) entrance of St. Stephen's Green Shopping Centre, St. Stephen's Green, Dublin 2. The development to be retained comprises the following:

- Advertising signage (c.7.8x c.2.2m i.e. 17.16sq.m) which is projected from within the entrance lobby of the St. Stephen's Green Shopping Centre (at the junction of Grafton Street/South King Street and St. Stephen's Green) by means of two projectors onto a vinyl strip on the curved upper glazed surface/window, c.2.95m above the main entrance, to be viewed from the outside.

Drawings including a Site Layout Plan showing the location of the signage, Elevations showing the sign in content and Photographs showing views relative to the surrounding area have been submitted.

Details of background history and planning policy, a description of the retention development etc. have been submitted with the application from Tom Philips Associates, Town Planning Consultants.

## 3.0 PLANNING HISTORY

The more recent planning history relative to the Shopping Centre site includes the following:

- Reg.Ref.3208/10 – Planning permission granted by the Council for a development to include a new 11 screen complex in place of carparking and plant areas at rooftop of the existing St. Stephen's Green Shopping Centre, extension of stair cores and lift to new level. This was subsequently upheld on appeal to ABP and permission was granted subject to conditions. (Ref. PL29S. 237685 relates - 14<sup>th</sup> of February 2011).
- Reg.Ref.2818/14 – Permission was granted subject to conditions by the Council for amendments to the previous permission (ref. noted above) to provide for two mutually exclusive options that utilise an existing rooftop plant area within the cinema complex that had been previously identified in the parent permission for removal. The description of development includes: *Access and egress from the complex is proposed as previously permitted (i.e via the main*

*entrances to the Shopping Centre*). This application was not the subject of a subsequent appeal.

A full description of these proposals and copies of these permissions are included in the History Appendix of this Report.

#### Unauthorised Development

E0782/14 - Dublin City Council has issued an Enforcement Notice requiring the development i.e: *The erection of a 6-part projected advertising screen located over the main entrance on the South King Street/St. Stephen's Green West corner of the shopping centre without the benefit of planning permission*, to be removed by the 26<sup>th</sup> of October 2015. The deadline was subsequently extended until the 26<sup>th</sup> of January 2016. Copies of the relevant enforcement correspondence have been submitted in Appendix 1 of the documentation submitted with the application.

#### **4.0 PLANNING AUTHORITY APPLICATION**

Dart Underground notes that the property is within the zone of influence of the DART Underground and concludes that the development will not impact on the integrity of the Dart Underground.

#### Engineering Department –Drainage Division

They have no objection subject to compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.

#### Planner's Report

This has regard to the locational context, planning history and policy relative to the proposed retention development. Particular regard is had to Appendix 27 – Outdoor Advertising Strategy and the Scheme of Special Planning Control for Grafton Street relative to advertising and to the South City Retail Quarter ACA. They considered that the site is in a prominent location and were concerned about the scale, design and materials and rationale for the proposed signage. Although the site is not within it is proximate to the ACA and Scheme of Special Planning Control and they considered that it would have an undue negative impact on the character of the street, visual amenity of the public realm, the adjacent ACA and Conservation Area and recommended that it should be refused.

#### **5.0 PLANNING AUTHORITY DECISION**

On the 7<sup>th</sup> of January 2016 Dublin City Council refused permission for the retention of the signage at the main entrance to St. Stephen's Green Shopping Centre for the following reason:

*The proposed development for retention of an advertising display in an area zoned Z5, by virtue of its nature and scale would result in an undue negative impact on the visual amenity of the surrounding area, the South City Retail Core ACA and the St. Stephen's Green Conservation Area and would therefore be contrary to both the provisions of the Dublin City Development Plan 2011-2017 and the proper planning and sustainable development of the area.*

## 6.0 GROUNDS OF APPEAL

Tom Philips Associates Planning Consultants have submitted a First Party Appeal on behalf of the applicants and this provides that there are four key appeal grounds i.e:

- Insufficient weight was accorded to the provisions of the Development Plan, which allows that advertising may be permitted in zones such as the subject site, and insufficient weight was given to the vision set out in DCC's own draft strategy 'Developing the Retail Core' – both of which bear directly on the site.
- Conversely they consider that undue weight was accorded to the provisions of the Grafton Street SPCS and the Grafton Street and Environs ACA - even though neither bear directly on the site.
- They disagree with the Planning Authority's opinion that the development would have a negative impact on the visual amenity of the surrounding area.
- They consider that the PA has insufficient regard to the unique nature of the development.

A detailed analysis is given of each of these concerns in the context of their Appeal Statement. They conclude that the development is not of a nature that could set an undesirable precedent and has been carefully designed to integrate with the design of the main entrance to the shopping centre. They do not consider that the development would have an undue visual impact and consider that it would be unreasonable to refuse permission.

## 7.0 RESPONSES

Dublin City Council provides that the reasons for refusing the retention permission are clearly set out in the Planners Report for the application. They do not intend to respond in detail to the grounds of appeal as the P.A considers that their comprehensive planning report deals fully with all the issues raised and justifies its decision.

## 8.0 PLANNING POLICY

Dublin City Development Plan 2011-2017:

The site is zoned Z5 with the objective: *To consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity.*

The Z5 zoning allows 'Advertisement and advertising structures' as open for consideration uses.

Section 4.4.6 relates to Outdoor Advertising Strategy and notes that a strategy has been developed for commercial advertising in the public domain and is included in Appendix 27. Policies SC25 relates to Control of Advertising and SC26 to Enforcement measures regarding Unauthorised Advertising.

Objective SCO10 refers to the DCC objective to produce a Public Realm Strategy to guide the development of Dublin's public space.

Section 17.24 refers to Shopping Centres and includes that they: *must conform to highest urban design standards as set out elsewhere in the plan.*

Section 17.25 relates to Retail and this includes 17.25.3 which refers to Signs of Shopfronts and Other Business Premises.

Appendix 4 provides the Retail Strategy. *The Retail Strategy for Greater Dublin Area (RSGDA) sets out the challenges that must be addressed, arising from the assessment of the various changes in the retail environment.* Regard is had in Table 1 to the Retail Hierarchy. This includes regard to Category 1 streets and to retail development in ACAs and Conservation areas.

Appendix 27 of the Plan refers to Outdoor Advertising Strategy in the city and it is noted that as shown on Fig.22, relative to Zones of Advertising Control, the Shopping Centre is located within Zone 2 i.e: *Zone of significant urban quality with retail/commercial uses, where special controls should apply to advertising in the street.*

Appendix 29 provides the Land-Use Definitions and includes regard to Advertisements and Advertisement Structures.

#### Other Documents referred to:

A Scheme for *Special Planning Control for the Grafton Street Area and the Grafton Street and Environs ACA* was adopted in 2013.

Part 3 refers to Shopfronts and Advertisement Structures. This section recognises the Outdoor Advertising Strategy adopted by Dublin City Council in January 2013 and sets out development management measures for shopfront design and signage.

Part 5 refers to The Public Realm and provides that the key objective is: *To promote high quality and inclusive design to improve the quality of the public realm and open spaces. This section sets out proposals to upgrade Grafton Street in the context of the Dublin City Public Realm Strategy and Luas Cross City, and development management standards to be applied to proposals for certain elements of street furniture.*

#### Draft Plans

Regard is also has in the documentation submitted relative to the Z5 zoning and to Advertising Policy in the *Draft Dublin City Development Plan 2016-2022*. As this document has not yet been adopted, the current Dublin City Development Plan 2011-2017 is the pertinent plan.

## **9.0 ASSESSMENT**

### **9.1 Principle of Development having regard to Planning Policy**

The issue for consideration in a retention application is whether the development would be sustainable and permission would have been granted in the first instance in accordance with planning policies and taking into account the character and amenities of the area, if the unauthorised development had not taken place. The development is currently unauthorised and is the subject of an Enforcement Notice that required its removal on the 26<sup>th</sup> of January 2016.

The First Party submits that the development has been carefully designed, is attractive, modest and well integrated in its location over the main entrance to the principal commercial shopping centre on the south side of the quay. They also submit that it has a functional role in terms of public service e.g. in the promotion of cultural promotion of events. The issue is whether it complies with planning policy in the current DCDP 2011-2017 eg. Policy SC25 in Section 4.3.3. and Appendix 27 relative to Outdoor Advertising Strategy.

Section 17.10 of the DCDP provides for strict controls on advertising in Conservation Areas and includes: *Development within conservation areas should be so designed so as not to constitute a visually obtrusive or dominant form of development.* St. Stephen's Green Shopping Centre is proximate but outside of the Scheme for *Special Planning Control for the Grafton Street Area* and the *Grafton Street and Environs ACA*. Land Use Zoning Map E of the DCDP 2011-2017 and Figs.6 and 7 of the documentation submitted with the application relates. This Map also shows that the frontage of the site adjoins the St. Stephen's Green Conservation Area. Fig.18 which refers to the *City Retail Core – Principal Shopping Streets* shows that the site is included at the southern end of Category 1 Streets at the corner of St. Stephen's Green.

Fig. 22 of Appendix 27 relates to Zones of Advertising Control and this shows that the Shopping Centre is located within Zone 2 i.e. *Zone of significant urban quality with retail/commercial uses, where special controls should apply to advertising in the street.* It is also provided: *In this zone outdoor advertisement may be permitted subject to special development management measures.* It is provided that while the subject signage is not situated in the street it is integrated into the entrance of the main shopping centre.

Fig. 8 of the First Party documentation shows that the site is within the area identified in the Draft DCC document entitled *Dublin City Centre – Developing the Retail Core*. It is noted that this document identifies the pavement directly beside the entrance lobby to the St. Stephen's Green shopping centre as Site No.1 in the diagram relating to the public space strategy (S.7.3 of the Retail Core Strategy – shown on Fig. 9). This relates to public space strategy and the creation of new public spaces. The sign is just outside of the area of Special Planning Control and the ACA and Conservation Area. Therefore it is queried as to whether the more restrictive measures should be applied to the application site when it is outside of these areas of special planning control. The First Party considers that undue weight has been given to these issues and insufficient regard has been given to the unique nature of the development.

The issue in this case is whether this signage, which is in different format from other types of signage in the vicinity is deemed to be acceptable in this area or whether it is considered that it would have an adverse/negative impact on the character of the shopping centre and detract from the integrity of and set an undesirable precedent for the surrounding conservation areas in this visually prominent location. These issues are discussed further in the relevant Sections of this Assessment below.

## **9.2 Design of Advertisement Structure**

The documentation submitted with the application provides a detailed description of the development. This includes that the existing development comprises two automated projectors mounted on a tray on the inside (back) of the circular entrance lobby at the Grafton Street/Stephen's Green entrance to the shopping centre. The location of these is shown on Fig. 2 and 3. These project images onto a sheet of vinyl attached to the inside top section of the front (street side) window of the entrance lobby. These images can change on a frequent basis as determined by the programming of projectors (Figs. 4 and 5 relate). The later shows the greater impact of the advertising outside of daylight hours. Regard is also had to the drawings and photographs of the views submitted.

In this case the sheet of vinyl is fixed to the curved glass panel/window immediately over the main entrance. This window measures approx. 7.8m in length x 2.2m high (17.16sq.m) about 2.95m above ground level and is illustrated on the drawings. All of this signage and associated projectors are in situ and operational. It is noted that this signage is designed so that it matches the curve of the glazing above the entrance and there is no sound associated with it.

## **9.3 Usage of the Advertisement Structure**

The projectors can be programmed to show advertisements, movies or public service messages or any mix of these. It is provided that to date some significant 'public service' type messages have been provided and examples are given on Figs. 4 and 5 of the documentation submitted with the application. The First Party considers that it has an important role to play in the promotion of public and cultural events. Also that it is a suitable usage for a major urban plaza in the retail core, providing generous space for a range of activities including street based entertainment.

When the projectors are off the building resumes its appearance and frontages as if there was no screen. It is provided that this appears that there is no material alteration whatsoever to the building apart from the frosted vinyl on the inside of the glass. The projection is currently timed to commence at 12 (midday) and to turn off at 2am. Its routine is 14 hours per day, 7 days per week. There is no sound associated with this development.

The applicants provide that to distinguish the subject development from purely commercial advertising, they would be prepared to accept a condition linking a proportion of the use to 'cultural, creative and artistic' or public service imagery such as might be agreed in writing by the Planning Authority. This would require that a proportion of use time be provided for such messaging, subject to the written agreement of the P.A. While this may be beneficial the question is whether this would be easily enforceable. However it is considered that if the Board decide to permit that a condition restricting the projection time of the signage to 12 hours per day i.e. from 12.00 to 24.00hours only should be included.

#### **9.4 Impact on the Character and Amenities of the Area**

The advertising structure is visible in the context of the main entrance into the St. Stephen's Green Shopping Centre. This faces onto a busy pedestrian space at the intersection Grafton Street, King Street South, Stephen's Green North and West. It faces the main gate of St. Stephen's Green on the opposite side of this intersection. It is mainly seen from this gate and St. Stephen's Green North to the east. Views from Grafton Street are more restricted and it is not seen until the top end of the street adjacent to the Centre due to the curve of the street and the projection of the buildings.

I viewed the sign at c.15.00 when fully operational. I noted a variety of images being projected onto the curved glass panel by the two high level projectors at the inward side of the curved entrance space. In the daylight this signage is not very visible or effective in view of glare from sunlight and the panel appears relatively dark. However it would appear more effective and colourful outside of daylight hours and in the winter period.

It does have some impact in darkening the lobby area of the entrance the centre. However, internally the centre is well lit both by internal and external lighting (in view of the glass dome structure). The rear of the panel on the frontage can be seen from the front part of the mezzanine floor level, however in the context of the lobby area and entrance it is not considered that it has much impact on the centre. It was noted that there are a number of internally located freestanding illuminated digital type signs within the Centre. However none of these is visible externally.

The signage proposed for retention is a departure from the more traditional and other variety of static signage that is prevalent in the area, and could set a precedent. However it is considered to be well integrated within the main entrance lobby and the main effect on the character of the area is when it will appear more visible outside daylight hours. The St. Stephen's Green Shopping centre is a distinctive late 20<sup>th</sup> century building, and it is considered that in this context this more modern type of signage would not detract from the appearance of the building. It is considered that visually it has an impact on the area but would not impact adversely on the character of the ACA or Conservation Area and is seen in the context of this busy Shopping Centre.

#### **9.5 Relevance of a Temporary Permission**

It is noted that Appendix 27 of the DCDP which provides the Outdoor Advertising Strategy includes: *Permissions for outdoor advertising in certain instances where appropriate as determined by the planning authority, may be limited to a maximum of three years in the first instance to enable the position to be reviewed by Dublin City Council in the light of changing circumstances at the end of that period.*

It is recognised that Dublin City Council has concerns about the impact of this structure and that this is a departure from other types of advertising structures/signage in this prominent location. Therefore it is recommended that in order to gauge its impact on the immediate area that if the Board decide to permit that it be conditioned for a temporary period of three years from the date of any Order to grant permission.



## **9.6 Appropriate Assessment**

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

## **9.7 Development Contributions**

The Dublin City Council Development Contribution Scheme 2016 – 2020 is the pertinent scheme. Section 12 provides the Exemptions and Reductions, which does not refer to Advertisement Structures, Section 14 provides for Reductions for Temporary permissions. Section 15 provides that *Exemptions and Reductions shall not apply to permissions for retention of development*. However as there is no specific mention or category for Development Contributions relative to Advertisements or Advertising Structures, but rather to measurement of floorspace, it is not considered that it would be appropriate to apply a contribution condition in this case.

## **10.0 CONCLUSION AND RECOMMENDATION**

In conclusion it is considered that subject to the conditions recommended below that the development proposed for retention is not contrary to planning policy and will not impact adversely on the character and amenities of the adjoining area. Having regard to the Assessment above it is recommended that retention permission be granted for a temporary period of three years.

## **11.0 REASONS AND CONSIDERATIONS**

Having regard to the scale, design and nature of the retention development, the location of the advertisement structure, integrated within the main entrance to the modern St. Stephen's Green Shopping Centre and the land use zoning of the site within the Z5 central area, it is considered that the development proposed for retention, subject to compliance with the conditions set out below, would not unduly affect the appearance of the adjacent conservation areas, would not seriously injure the character or amenities of the area or of property in the vicinity and would not be prejudicial to public health. The retention development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **12.0 CONDITIONS**

- 1.(a) The development shall be retained in accordance with the plans and particulars lodged with the application, and by the further plans and particulars received by An Bord Pleanála on the 2nd day of February 2016 except as may otherwise be required in order to comply with the following conditions.
- (b) This permission shall be for a temporary period of three years from the date of this order. The advertisement structure and all associated equipment shall then be removed unless, prior to the end of the period, permission for their retention shall have been obtained.

**Reason:** To allow for a review of the development having regard to the circumstances then pertaining and in the interest of visual amenity.

2. (a) The operational time for the visual display of imagery and any form of lighting on the advertisement structure shall be between 12.00 to 24.00 hours only.
- (b) There shall be no music speakers or sound amplification of any kind associated with the advertisement structure.

**Reason:** In the interest of visual amenity and traffic safety.

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Angela Brereton,  
Inspector,  
3<sup>rd</sup> of May 2016