



An
Bord
Pleanála

Inspector's Report ABP300232-17

Development	The provision of a 5 th floor (6 th storey) over basement level on Block 1 Granted under PL29S.246717 and all associated site works.
Location	AIB Bank Centre Lands, Junction of Merrion Road and Serpentine Avenue, Ballsbridge, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3747/17.
Applicant	Fibonacci Property.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Carmel O'Connor.
Observers	None.
Date of Site Inspection	23 rd February, 2018.
Inspector	Paul Caprani.

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1.0 Introduction

ABP300232-17 relates to a third party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the provision of an additional floor (6th storey) on Block No. 1 (most western block) of a development which was recently granted planning permission, but yet to be constructed, at the AIB Bank Centre at the junction of Merrion Road and Serpentine Avenue, Ballsbridge, Dublin 4. The grounds of appeal argue that the size, scale and height are excessive and that the proposed additional floor would be visually inappropriate.

2.0 Site Location and Description

- 2.1. The subject site is located at the AIB Banking Headquarters in Ballsbridge fronting onto the Merrion Road opposite the RDS. The site is 1.56 hectares in size. Serpentine Avenue runs along the eastern boundary of the site. A number of period two/three store dwellings are located on the eastern side of Serpentine Avenue facing eastwards onto the site. The main AIB Headquarters are located on lands to the north/rear of the subject site. The Ballsbridge Business Park comprising of a series of office blocks are located on lands to the west of the site. This business park faces onto Ballsbridge Park further west of the subject site.
- 2.2. The site forms part of the front portion of the AIB Banking Centre Headquarters which was developed in the late 1970s. The front portion of the building accommodates 4 three/five storey blocks set out in landscaped gardens. These blocks comprise of granite horizontal bands interspersed with recessed glass. The external elevations of the blocks are not unlike the former central bank building on Dame Street. A linear plaza/boulevard runs between the blocks providing access to the main corporate AIB building to the rear.
- 2.3. Under Reg. Ref. 29S.246717 Dublin City Council granted planning permission, which was upheld on appeal, by the Board for the replacement of the 4 three/five storey blocks to the front of the site with two larger blocks (Block 1 and Block 2). Under the application the applicants sought permission for 2 six storey office blocks with

setbacks on the fifth and sixth floors. The Board in its decision (Condition No. 2) required the omission of the recessed upper level at Floor 6 in both blocks.

3.0 Proposed Development

Planning permission is sought for the development of an additional floor on Block 1, the more westerly block of the two blocks that received planning permission under Reg. Ref. 29S.246717. The additional floor will increase the overall height of the building from 20 to 24 metres. As granted, the additional fifth floor is set back c.16 metres from the front (south) elevation fronting onto Merrion Road. The additional floor proposed under the current application seeks a further setback of 5.8 metres making the overall setback of the proposed floor over 20 metres from the front elevation of the building. The additional floor is to provide a further 1,910 square metres of office space providing a total gross floor area in the proposed new blocks to 55,474 square metres. Additional roof plant will be provided at roof level above the proposed floor. The external finishes are to match that of the remainder of the building for which planning permission is being granted.

4.0 Planning Authority's Decision

Dublin City Council issued notification to grant planning permission subject to 13 conditions.

4.1. Documentation Submitted with Application

4.1.1. The following documentation was submitted with the planning application.

Planning Report prepared by John Spain and Associates. This planning report sets out the site location and description, the planning history associated with the site (see below) and a description of the proposed development. It goes on to outline the planning policy as it relates to the subject development and also comments on the planning inspector's assessment in respect of PL29S.246717. It notes that the Board did not fully share the concerns of the inspector and only omitted one floor per block as opposed to the inspector's recommendation for two floors per block. It is argued that the proposed floor will have no material impact on neighbouring commercial residential or historic properties nor will it have any significant visual impact. It is

therefore respectfully requested that the Board permit the additional floor as proposed.

Also submitted was a **Sunlight and Daylight Analysis** by ARC Architectural Consultants. It shows the potential impact in terms of overshadowing on the receiving environment for the permitted and the proposed development at various times of the day at the vernal equinox (March 21st), the summer solstice and the winter solstice. It concludes that the development now proposed is unlikely to result in any material change to daylight access to neighbouring buildings over and above that already permitted.

A Townscape, Heritage and Visual Assessment was also submitted by Richard Coleman. This assessment includes a series of photomontages. It concludes that the proposal makes efficient use of the subject site while intensifying the relationship between the buildings and landscape. The proposal provides a high quality backdrop to the low group of red brick houses adjacent to the site. In all respects it is argued that the additional floor fits into the site without detriment to the urban realm.

4.2. **Planning Authority Assessment**

- 4.2.1. An observation from **An Taisce** suggests that the proposed development is overscaled and would impact negatively on protected structures in the vicinity. It is noted that An Bord Pleanála also required the reduction in the height and scale of the building as per Condition No. 2 of PL29S.246717.
- 4.2.2. A report from the **Waste Management Division** of Dublin City Council sets out protocols with regard to requirements in respect of construction and demolition projects and waste requirements in respect of the same.
- 4.2.3. A report from the **Engineering Department Drainage Division** states that the developer shall comply with all drainage conditions of the previous grant of permission.
- 4.2.4. The **Planner's Report** sets out details of the site description and the planning policy context as it relates to the site. The Report states that both the current and previous application have been reviewed in the context of the An Bord Pleanála's Inspector's Report and the local authority planning report agrees with the conclusion set out in the planning report submitted with the application, that an error was made in

calculating the overall site area for the comparison of PL29S.237503 (previous application on site) and PL29S.246717. It is suggested that the Board's decision to remove an additional floor did not lean heavily on the presumption of overdevelopment but was more concerned with the impact of the fifth floor on residential development in close proximity. The report goes on to assess the proposal in the context of the development plan and the impact of the proposed development in terms of architectural heritage in the area, overall design and overshadowing. It notes that although the additional floor will be visible from a wider area, the main body of the building will be read as a four storey structure from the Merrion Road. The daylight and sunlight analysis concluded that the proposal is unlikely to result in any material change in sunlight access to neighbouring buildings and therefore it is considered that the proposal would not have any significant impact on the amenities of residential properties in the area. As such, it is recommended that planning permission be granted for the proposed development.

5.0 Planning History

5.1. The relevant planning history is set out below.

Under **PL29S.237503** An Bord Pleanála refused planning permission for a mixed use development on the subject site for the demolition of all six blocks (c.15,700 square metres) and the erection of 6 no. seven to nine storey buildings with two basement levels with a gross floor area of c.52,000 square metres. Permission was refused for three reasons relating to:

- Inappropriate scale, massing and height which would result in a radical change in the urban form and the established character of Ballsbridge.
- The proposal represents an overdevelopment and overintensification of use on the subject site and would detract from the visual character of the area.
- The proposed buildings because of scale, massing and height and proximity to the boundaries would be overbearing and seriously injure the amenities of property in the vicinity.

Under Appeal Ref. **PL29S.246717** the Board upheld the decision of Dublin City Council to demolish four office blocks on the subject site and to erect 2 four/six

storey office buildings together with two new café/retail units on the subject site. The decision of Dublin City Council to issue notification to grant planning permission was the subject of numerous third party appeals. The Board in its decision dated 3rd October, 2016 upheld the decision of the Planning Authority but included Condition No. 2 which required the following:

‘The development shall be amended by the omission of the recessed upper level in its entirety at floor six in Blocks 1 and 2. Revised roof plans containing details of any proposed roof plant equipment and/or roof gardens in these areas should be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.

Reason: *To protect the amenities of neighbouring, residential, commercial and heritage properties located within this transitional area’.*

- 5.2. The planning inspector’s report recommended that the top two floors (Floors 5 and 6) be omitted from the proposed development. In deciding not to accept the inspector’s recommendation to omit the two upper floors of the proposed development, the Board considered that the omission of the sixth floor represented an acceptable reduction in the quantum of development and the reduction of the overall height adequately protected the residential amenities of adjoining properties.

6.0 Grounds of Appeal

- 6.1. The decision was appealed by Carmel O’Connor of No. 1 Serpentine Avenue, Ballsbridge.
- 6.2. The grounds of appeal argue that the inspector was quite clear on the recommendation under PL29S.246717 that floors five and six should be removed to protect the amenities of neighbouring residential, commercial and heritage properties located within the transitional zone. The applicant is disingenuous in suggesting that the inspector’s report believed that there was an overintensification of use in the site which was based on an error in calculating the floor area.
- 6.3. The reference to “transitional zone” is the key phrase according to the grounds of appeal. The application will see the current existing four office blocks which total 9,789 square metres to be demolished to make way for a development of 55,474

square metres. The inspector sought to reduce the impact. However, the Board didn't feel as strongly and recommended that only one floor from each of the blocks be removed. It is suggested that the applicant in this instance is being "exceedingly greedy and unnecessary". The addition of a sixth floor on one building will create a visual anomaly. It is suggested the applicants in this instance have only one priority to maximise the height and floor space which will result in a lopsided visual impact. It is suggested the economic policies should not be the only guiding principle in large scale developments such as this as the buildings in question. Particularly as these buildings will be part of the landscape for a very long time.

7.0 Appeal Responses

- 7.1. A response was received on behalf of the applicant by John Spain and Associates Planning Consultants. It sets out the site location and description, the proposed development sought under the current application and also sets out the planning history as it relates to the site. As in the case articulated to the Planning Authority, the grounds of appeal analyse the Inspector's Report in respect of PL29S.246717. It argues that in comparing the two previous schemes on site (PL29S.237503 and PL29S.246717), the previous planning inspector's report incorrectly suggested that the latter scheme (PL29S.246717) would result in an additional quantum of development on the subject site (c.6,145 square metres) over and above that refused under PL29S.237503 and that the quantum of floor space proposed under PL29S.246717 would give rise to an overintensification of use. It was on this basis, it is argued that the inspector recommended that two floors be omitted from the proposed development. The Board however did not fully accept the inspector's recommendation and only removed the top floor (sixth floor) from each of the blocks as per Condition No. 2 of PL29S.246717.
- 7.2. In reference to the planning policy context, the (then) Draft National Planning Framework (Ireland 2040) is referred to. It highlights the increasing importance of city regions as a focal point for international mobile investment and the emphasis on the need to develop a more consolidated form of urban development. It also emphasises the need to provide more appropriate building heights. The provision of an additional 1,900 square metres of employment space will enhance the ability to provide additional job opportunities near public transport.

- 7.3. Reference is also made to the Regional Planning Guidelines which likewise emphasise the need for landuse policies to support investments being made currently in public transport and it is argued that the proposed development will support these objectives.
- 7.4. Reference is made to the Dublin City Development Plan and it is argued that the proposal fully accords with the zoning objective and policies in relation to building height, plot ratio and site coverage.
- 7.5. A section of the response specifically addresses issues raised in the grounds of appeal. It is argued that the proposal fully accords with the zoning objectives as they relate to the site and Block 1 is located c.80 metres from the nearest residential properties to the east of the site. There is no proposed increase in height to Block No. 2 which is in closer proximity to these houses. The response goes on to describe building heights in the vicinity and notes that there are commercial buildings on adjacent sites ranging from 2 to 6 storeys in height. The mix of building heights and uses reflect the transitional nature of the area. It is noted that the Sweepstakes development is of a similar scale and height to that proposed for Block 1. The provision of a setback storey is in keeping with building heights to the west and north of the site. It is respectfully submitted that the proposed development provides for an appropriate transition to the adjoining Z15 zone.
- 7.6. It is also noted that the maximum permissible height under the City Development Plan is 24 metres. It is also argued that in terms of massing, that the proposed setback will ensure that the design will integrate sympathetically with the campus and the surrounding streetscape. Furthermore, the additional storey is to be clad in lightweight complimentary materials to the block granted permission and it is considered that the proposal will not create an inconsistent architectural statement to the surrounding streetscape on Merrion Road. The visual impact is deemed to be acceptable and this has been adequately demonstrated in the Architectural Design Report and the "Townscape, Heritage and Visual Assessment" submitted with the original application.
- 7.7. It is stated with respect to landscaping that the trees and planting to the front and side boundaries will be retained and improved and this will assist in the successful integration of the additional storey.

7.8. Separate responses were also prepared in respect of the grounds of appeal by Richard Coleman (Appendix 2) and Henry J. Lyons (Appendix 3). These responses set out a similar argument that the proposed additional storey will have a negligible impact on urban design terms and that the proposal will sit comfortably within the scale and character of the surrounding buildings. Reference is also made to the Sunlight and Daylight Analysis Report prepared by ARC Consultants which confirms that there will be no material impact arising from the provision of an additional floor.

8.0 Dublin City Council's Response to the Grounds of Appeal

A response from the Council dated 11th December, 2017 states it has not further comment to make and considers the planner's report on file adequately deals with the proposal which is the subject of the appeal.

9.0 Development Plan Provision

- 9.1. The site is governed by the zoning objective Z6 which seeks to "provide for the creation and protection of enterprise and facilitate opportunities for employment creation". Section 14.8.6 of the Plan states that it is considered that Z6 lands constitute an important landbank for employment use in the city. The primary objective is to facilitate long-term economic development of the city region.
- 9.2. Section 16.7 of the development plan relates to the building height strategy for the city. The subject site has been designated as "low rise" in an outer city location. However, as the site is located within 500 metres of a Dart station it allows for a maximum building height of 24 metres for commercial and residential use.
- 9.3. Section 14.7 of the development plan relates to transitional zone areas. It states that in zones abutting residential areas or abutting residential development within predominantly mixed-use zones, particular attention must be paid to the use, scale, density and design of the development proposals and to landscaping and screening proposals in order to protect the amenities of residential areas. This section of the development also notes the importance to avoid abrupt transitions in scale and land use zones. In terms of plot ratio, the Z6 zoning permits a plot ratio of 2/3. In terms of site coverage Z6 permits site coverage of 60%.

10.0 Planning Assessment

- 10.1. I have read the entire contents of the file, have visited the site in question and have had particular regard to the issues raised in the grounds of appeal. The critical consideration in determining the current application and appeal in my view relates specifically to Condition No. 2 of the extant permission issued by the Board under Ref. 29S.246717. Under this application, permission was granted for the two office blocks on the subject site. In granting permission, the Board in Condition No. 2 omitted the recessed upper floors in its entirety for both blocks. The inspector in her report and recommendation recommended that the top two floors should be omitted. According to the grounds of appeal, the inspector's reasoning behind omitting the two floors was based on an incorrect calculation and comparison of the floor areas of a previous scheme which had been refused by the Board on grounds relating to overdevelopment of the subject lands (PL29S.237503), and the quantum of development proposed under the then application PL29S.246717. Thus the grounds of appeal contend that it was on this basis that the inspector recommended a reduction in the quantum of development under PL29S.246717.
- 10.2. The Board in its reasoning behind omitting the upper floor on both blocks, did not specifically refer to the proposed additional floor area as representing an overdevelopment of the subject site or an intensification of use on the subject site. Rather the reasoning behind Condition No. 2 appears to be predicated on the need to protect the amenity of neighbouring residential, commercial and heritage properties located within a transitional area. The Board therefore considered that in respect of both blocks an additional fifth floor (sixth storey) would be incongruous and inappropriate having regard to the development location in the context of the receiving environment.
- 10.3. I consider that the same conclusions and rationale would hold true in the case of the current application before the Board. The Board have already determined that the provision of a fifth floor (sixth storey) on the two office blocks located to the front of the site and facing onto Merrion Road was inappropriate having regard to the need to protect residential amenities of neighbouring residential, commercial and heritage

properties in the vicinity. It appears to be clear therefore that the Board in determining the above application were not solely concerned with the potential impact on residential properties on Serpentine Avenue but were also concerned with the potential incongruous relationship with commercial and heritage buildings in the vicinity including the RDS which is listed as a protected structure directly opposite the site.

- 10.4. Notwithstanding the arguments set out in the grounds of appeal regarding the previous inspector's reports supposed inaccurate comparison with the previously refused scheme on site, this would not in my view result in any material changes as to how the Board might view the current application before it. The Board clearly in my view considered the provision of a fifth floor (sixth storey) on the subject office blocks to be inappropriate. No material changes or circumstances have occurred under the current application and appeal which would merit or materially alter the Board's conclusion that a sixth floor is inappropriate on aesthetic and amenity grounds. Thus there is nothing in my view which would alter the Board's conclusion reached under PL29S.246717.
- 10.5. In urban design terms, I acknowledge that the proposed additional floor incorporates sufficient setbacks to ensure that it is not readily visible from ground level when viewed from vantage points in the immediate vicinity of the subject site. Nevertheless, the blocks as currently permitted enjoy an obvious symmetry in terms of height. There is a visual balance in the office blocks as currently permitted. This balance will be altered with the provision of an additional floor on one of the office blocks and this in my view would be evident over middle distance views and vantage points approaching the site particularly along the Merrion Road. The photomontages indicate that while this visual impact will not be overtly obvious nor will it be detrimental to the visual amenities of the area, it will nevertheless be evident from some of the vantage points in the area.

11.0 **Conclusions and Recommendation**

I consider the Board have already assessed the development on site under PL29S.246717. It concluded that the subject site is suitable for a development comprising of five storeys only. For this reason, it decided to omit an additional

recessed sixth floor in its decision dated October, 2016. I do not consider that there has been any material change in circumstances which would warrant or justify a change in the Board's determination as suggested in the applicant's response to the grounds of appeal. I therefore recommend that the decision of Dublin City Council be overturned in this instance and planning permission be refused for the additional storey proposed.

12.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

13.0 Decision

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to the planning history of the subject site and specifically Condition No. 2 of Reg. Ref. 29S.246717 which required the omission of the recessed upper level in its entirety at Floor 6 in Blocks 1 and 2, it is considered that there has been no material change in circumstances which would warrant or justify the incorporation of an additional storey on Block 1. It is therefore considered that the proposed development would adversely impact on neighbouring residential, commercial and heritage properties in the area and would therefore be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

13th March, 2018.