



An
Bord
Pleanála

Inspector's Report ABP-302371-18

Development	Permission for office extension
Location	24/25 South Mall, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	1837912
Applicant(s)	Huntington Ventures Ltd
Type of Application	Permission
Planning Authority Decision	
Type of Appeal	Third Party
Appellant(s)	Messrs Murphy and McNamara.
Observer(s)	None
Date of Site Inspection	01/12/18
Inspector	John Desmond

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1.0 Site Location and Description

- 1.1. The application relates to the site of an existing mid-terrace, 5-storey, office building, dating most probably from the 1970's, situated on the South Mall (nos.24/25) in Cork city centre. The main-frontage to the existing building presents a of curtainwall design, framed with limestone. The existing fourth floor level is set back almost 7m from the main line of the street front elevation and its utilitarian design, comprising a render-finished wall, with 2no. small windows and 2no. doors, is highly discordant with that of the main elevation. The rear elevation treatment is similar to that of the fourth-floor level.
- 1.2. The South Mall traditionally comprises Cork city's core commercial-office area. The street includes a mix of historic and replacement buildings. The neighbouring property to the east is a 4-storey historic building, whereas the property to the west is a 7-storey, 1980's / early 1990's replacement building, with its two upper floors recessed.

2.0 Proposed Development

- 2.1. It is proposed to erect an office extension of c.53-sq.m to the front of the building at fourth floor level, setback c.1.89m from the main front elevation.

3.0 Planning Authority Decision

3.1. Decision

To **GRANT** permission subject to 11no. conditions. Nine of the conditions are standard type conditions, including a contribution condition and a supplementary development contribution condition. The following conditions are of note:

No.2 – requires full details of external finishes to be submitted for written agreement.

No.3 – provides that the front (northern) balcony be accessible only for maintenance of emergency purposes.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the Senior Executive Planner (19/07/18) is consistent with the decision of the planning authority to grant permission and the conditions attaching thereto.

3.2.2. Other Technical Reports

Environment (26/06/18) – No objection subject 3no. standard conditions, including a condition limiting hours of construction and construction noise.

Drainage (28/06/18) – No objection subject to 2no. standard conditions.

Roads Design (04/07/18) – No objection subject to 3no. standard conditions.

3.3. **Prescribed Bodies**

Irish Water (03/07/18) – No objection subject to 8no. standard type conditions.

3.4. **Third Party Observations**

1no. letter of objection from Adrian McNamara, Murphy and McNamara & Co. Solicitors of nos.24/25 South Mall. The points made are repeated and elaborated upon in the appeal submission and are summarised in section 6.1, below.

4.0 **Planning History**

No relevant planning history on site.

5.0 **Policy Context**

5.1. **Development Plan**

Cork City Development Plan 2015-2021

Land use zoning 2 - City Centre Commercial Core

Chapter 13 City Centre and Docklands

5.2. Natural Heritage Designations

Cork Harbour SPA 004030 c.2.8km to the southeast.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of the third-party appeal by Messrs Murphy and McNamara Solicitors (of no.24/25 South Mall), may be summarised as follow:

- Insufficient information in support of the application
 - no design statement (required under para.16.3 for development in ‘sensitive areas’ such as the application site);
 - no Construction Management Plan or other technical information;
 - no information demonstrating compliance with objective 13.1 of the CDP, which sets out strategic objectives to sustain the vitality of the City as the ‘healthy heart’ of the region, and to facilitate the sustainable movement of people to/from and within the city centre;
 - no information to demonstrate how the it can comply with objective 13.10 to promote and retain office uses on the South Mall, given the very disruptive nature of the development.
- Insufficient information submitted to allow assessment of impacts and outcomes
 - It is impossible to assess the development proposals in a meaningful way;
 - A balanced scrutiny of the proposal and its consequences would show that the works and development would, given the constraints of the site, be injurious and contrary to the proper and orderly planning and safe / sustainable development of the building.
- Invalid due to absence of information
 - Fails to meet requirements of the Cork City Development Plan;

- Fails to address the 12 criteria set out in the Urban Design Manual, A Best Practice Guide (context; considered solutions to avoid clashes between a scheme and the surrounding landscape, properties and users);
 - no consideration of the status and entitlement of the users has been demonstrated.
- Disruptive and injurious to amenities of the appellants
 - Site specific constraints, including limited access facilities will make development very disruptive and injurious to the safe use and the amenities enjoyed by the appellants of their offices;
 - Duty of care on designers, etc., for established users and endangering public safety, has not been addressed in any way;
 - Injurious impact on safe use and continuing uninterrupted benefits arising from my clients' business
 - Very reasonable concern given the experience of the appellants of works carried out at the property in January and February of this year;
 - Depreciation of value of the appellants' property
 - The inevitable consequences and interruption of the appellants' use of their premises will give rise to depreciation and loss of value arising from my client's current entitlements;
 - Inadequate and flawed assessment by the planning authority
 - The planning officer did not test the proposal against the clearly stated criteria under the Urban Design Manual: A Best Practice Guide;
 - The planning officer's conclusion that the matters raised in the objection are considered primarily a 'civil matter', outside the scope of the application is clearly flawed;
 - The matters raised related to amenity and are a legitimate planning consideration;
 - Case law Maher-V-ABP held that it was clear that depreciation in value of property in the vicinity is a valid reason for refusing planning

permission (with no right to compensation) – the value of the appellants' premises is intrinsically and inherently linked to the safe use of same;

- Compensation is also excluded where other matters are considered, including noise pollution, vibration, etc, but were not considered or assessed in the application;
- The conditions attached have no regard to the users of the premises and do not address design statement, CMP, etc;
- The noise restrictions imposed are completely inadequate to permit the continued safe and uninterrupted use of the premises as offices and no meaningful conditions are attached to restrict and regulate any development in a manner sensitive to the existing uses;
- Contrary to the proper and orderly planning of the area
 - Absence of any meaningful submissions and consideration to the receiving environment or regard to the current users of the building;

6.2. Applicant Response

The main points of the applicant's response to the appeal may be summarised as follow:

- Insufficient information supporting proposal
 - Modest extension
 - Overwhelmingly supported by the CDP (objective 3.9 Prime office locations; objective 13.1, 13.25 Offices, 13.27 South Mall, 13.29 Supporting Innovation)
- Insufficient information to allow assessment
 - The design statement is not relevant given the sale of the extension, as was concurred with in the planner's report which indicates that para.13.27-13.28 of the CDP does not related to minor works such as that proposed
- Invalid

- The application was lodged with all necessary drawings and documents and was deemed valid by the planning authority
- Setback by 1.5m ensures it is not visible and will have no impact on pedestrians below
- Disruptive and injurious to appellants' use of premises
 - Given the lightweight texture of the proposed development, construction disturbance can be successfully managed to ensure the objector can continue to enjoy uninterrupted use of his current office space
 - The offices use an internal stairwell, but the applicant will use the external fire escape for access and to also comply with noise restrictions and hours of work as per condition no.9
 - The developer is happy to discuss any construction concerns and proposed restrictions prior to commencement of the development (attempts have already been made to contact the appellants' agent to agree same)
- Depreciation in value of appellants' property
 - The development will result in no loss of value to the appellants' office space which is owned by the developer but will have opposite effect and provide new life to fourth floor level
 - Construction period estimated at 10-12 weeks and will be carried out without disruption to the appellants' office space
- Inadequate and flawed assessment
 - This is addressed above
- Contrary to proper and orderly planning and sustainable / safe development of the area
 - Modest extension to existing 4th floor 70-sq.m office unit
 - No legitimate planning argument to NOT grant permission

- Long established office use at fourth floor level, a use encouraged by the CDP
- In keeping with height, scale, proportions and urban texture of South Mall and existing building
- Maintains current ridge line / roof line
- Current front façade line is uninterrupted with development recessed 1.5m from existing building line
- The developer will ensure no disruption to appellant's current office environment during construction

6.3. **Planning Authority Response**

No further observations to make (14/09/18).

7.0 **Assessment**

The issues arising in this case may be addressed under the following headings:

- 7.1 Policy / principle
- 7.2 Visual impact
- 7.3 Impact on amenities
- 7.4 EIA Screening
- 7.5 AA Screening

7.1. **Policy / principle**

- 7.1.1. The application site is located within that area zoned *City Centre Commercial Core*. Office use is permitted in principle. The use of the existing building is long established in office use and would appear to have been purposely built for that use. The proposed office extension, amounting to only c.53-sq.m, is small in scale and is acceptable in principle.

7.2. Visual impact

- 7.2.1. The design of the proposed fourth floor extension accords with the character of the existing building and provides a respectful step back of almost 2m (1.89m) from the main front elevation. I am satisfied, having inspected the site and its location, that the proposed extension would not be unduly obtrusive or out of character within the site context. Condition no.2 concerning agreement of external finishes with the planning authority prior to the commencement of development is appropriate and reasonable. I do not consider it necessary for the applicant to submit a design statement or submit a detailed review of the development against the *Urban Design Manual, A Best Practice Guide* for a development of this minor scale.

7.3. Impact on amenities

- 7.3.1. The appellants' concerns would appear to relate primarily to potential disruption to its office operations during the construction period rather than to the proposed development and use per se.
- 7.3.2. In response to the appeal the applicant has confirmed that it is the intention for the developer to use the external fire escape stairwell for access during construction works; that it is intended to comply with the noise restrictions and hours of work as per condition no.9; that the applicant is happy to discuss any construction concerns and proposed restrictions prior to commencement of the development; and that the development is expected to be completed within 10-12 weeks. Accordingly, the applicant submits that the development will not cause disruption to the applicant's office operations.
- 7.3.3. It is likely that the proposed development will result in some level of construction impact in terms of noise and vibration on the existing office environment of the appellants. This will be temporary and will be minimised by the imposition of condition no.9 relation to construction noise limits. I do not consider it necessary for the applicant to produce a detailed construction management plan for a development of the scale proposed.
- 7.3.4. I do not consider condition no.3 restricting the use of the fourth-floor front balcony to access for maintenance or emergency exit to be warranted or reasonable. The

reason for the condition is generic and does not adequately explain the reason for such a restriction. I would advise that this condition be omitted.

7.4. **EIA Screening**

- 7.4.1. The proposed development is development of a class under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, namely Class 10. Infrastructure projects, (b)(iv) Urban Development. However, at c.53-sq.m development area, it is significantly subthreshold the 2ha limit provided under that part and the site is not of particular environmental sensitivity, therefore EIA is not required.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the small-scale nature of the development proposed within an existing built-up area of Cork City, it is not considered that the proposed development would be likely to have a significant effect, directly or indirectly, individually or in combination with other plans or projects on any European site. I consider no Appropriate Assessment issues to arise.

8.0 **Recommendation**

- 8.1. I recommend that permission be **GRANTED** subject to the conditions set out under section 10.0, below.

9.0 **Reasons and Considerations**

10.0 **Conditions**

1. The development shall be carried out and completed 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 18th day of September, 2018 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. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority full details, including specifications, for all external finishes of the development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority, or Irish Water as appropriate, for such works and services.

Reason: In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

5. Noise during construction shall not exceed 65dB(A)_{Leq 30 mins} and peak noise shall not exceed 75dB(A) as measured at any point off site or within the existing offices at third floor level.

Reason: In order to safeguard the amenities of property and existing uses in the vicinity and within the existing office building on site.

6. 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 made under section 48 of the Act be applied to the permission.

7. The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail Project 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, 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

John Desmond
Senior Planning Inspector

3rd December 2018