



An
Bord
Pleanála

Inspector's Report ABP-304190-19

Development	Interchangeable-colour lighting measures to the south and west elevations of hotel
Location	The Spencer Hotel, Excise Walk, North Wall Quay, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2084/19
Applicant(s)	Spencer Leisure Investments Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Spencer Leisure Investments Ltd.
Observer(s)	1.) Clarion Quay Management Company Ltd.; 2.) Carmel O'Sullivan & Others; 3.) Transport Infrastructure Ireland
Date of Site Inspection	18 th June 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of approximately 1,735sq.m and is located on the northside of Dublin city centre, fronting onto North Wall Quay and siding onto Excise Walk, a pedestrianised street. Adjacent to the east of the site is a six-storey office block, 25/28 North Wall Quay (A&L Goodbody), and adjacent to the west is the Clarion Quay development, comprising eight-storey residential blocks with commercial units, including cafés and restaurants at ground floor opening onto Excise Walk. A service laneway to the north, known as Alderman Way, separates the appeal site from the National College of Ireland, which opens onto Mayor Square. Two restaurant buildings with glazed frontages onto the riverside are located on the quayside opposite the appeal site.
- 1.2. Currently on site is a seven-storey hotel over basement with a stated gross floor area (GFA) of approximately 11,358 sq.m. The external finishes to the hotel feature a mix of glass, red brick and stone facing. The southern elevation of the hotel onto the quays includes three illuminated signs identifying the name of the hotel, including backlit lettering at fascia level and at fourth-floor level. There are also non-illuminated fascia signs and projection signs referring to the hotel facilities along the Excise Walk frontage.

2.0 Proposed Development

- 2.1. The proposed development comprises the installation of interchangeable colour-lighting to the North Wall Quay (south-facing) elevation and to the Excise Walk (west-facing) elevation of the hotel building, including:
- four narrow-beam downlights at ground-floor level on the south elevation;
 - six narrow-beam uplights located above the ground-floor level on the south elevation;
 - linear narrow-beam lighting at ground floor on the south elevation;
 - light-emitting diode (LED) neon-flex linear lighting at first to fifth-floor levels on the south elevation and west elevation.

2.2. The Application was accompanied by a Planning Report and a 'Fibre LED Lighting Proposal' with computer-generated images of the proposed lighting scheme to the hotel.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse permission for the proposed development for the following reason only:

'It is considered that the proposed scheme of lighting, by reason of its design, extent of illumination and location close to residential properties upon the North Wall Quay, within a designated Conservation Area, would contravene Policy CHC4, Section 16.2.2.3 and Policy SI26 of the Dublin City Development Plan 2016-2022. The proposed development is contrary to the proper planning and sustainable development of the area'.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer (March 2019) reflects the decision of the Planning Authority and noted the following:

- the area experiences a significant amount of ambient light pollution from buildings, streetlights and vehicles, as well as other sources typical of a city-centre location;
- the proposed lighting measures are for aesthetic purposes only and are not required to meet any statutory requirements, such as compliance with Building Regulations;
- all of the area where the new illumination scheme is to be installed, is located within the designated conservation area for the River Liffey quays;
- the lighting would change the appearance of the subject property, particularly at night time, and given the conservation area setting, would be unacceptable as it would render the building appearance incongruous with the adjacent properties and the wider conservation area;

- the extensive provision of illumination to neighbouring civic or public buildings cited by the applicant is noted, including the Customs House, the Three Arena and the Convention Centre, but the extent of illumination to these buildings is in keeping with their associated public and active uses;
- lighting along the western elevation could impact on the amenity of apartments approximately 18-22m to the west in the Clarion Quay development, which would be contrary to policy SI26 of the Development Plan.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water – no response;
- National Transport Authority – no response;
- Transport Infrastructure Ireland (TII) – recommends Section 49 levy to be attached.

3.4. Third-Party Submission

- 3.4.1. One submission was received during consideration of the application from Thomas Hayes, a Director of Clarion Quay Management Ltd. The issues raised in this submission are covered in the observations to the appeal.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The applicant requested a Section 5 Declaration regarding lighting proposals to the hotel under DCC Ref. Expp. 0486/18 and in December 2018 the Planning Authority declared that the proposed lighting is development is not exempt development. The following recent planning applications relate to the appeal site:

- An Bord Pleanála (ABP) Ref. 300638 (DCC Ref. 4073/17) – retention permission for a sign (c.6.6 sq.m) on the south elevation of the hotel was

refused by the Board in May 2018 due to the impact of the sign on a designated conservation area and as the proposed development would be contrary to Development Plan policies with respect to advertising signage;

- ABP Ref. 300171 (DCC Ref. 3710/17) – permission granted in May 2018 by the Board for demolition and internal layout works to the east side of the hotel to facilitate extension works from ground to seventh-floor level, providing for an additional 40 bedrooms and two conference rooms;
- DCC Ref. DD685 – permission granted by the Dublin Docklands Development Authority (DDDA) in January 2015 for individually-mounted letters to the front of the hotel, with a condition attached to reduce the lettering height from 840mm to 500mm;
- ABP Ref. PL29N.243371 (DCC Ref. WEB1031/14) – permission refused (September 2014) for two signs to the front of the hotel, due to their impact on a designated conservation area and as the proposed development would be contrary to Development Plan policies with respect to advertising signage.

4.2. Surrounding Sites

4.2.1. There is an extensive planning history associated with the adjoining and neighbouring sites, including the following recent applications:

- DCC Ref. WEB1408/16 – permission granted in January 2017 for lettering to the M&S shopfront on Mayor Square and the installation of a non-illuminated projecting sign on Excise Walk, with a condition attached omitting the back lighting of the lettering and the illumination of the signage;
- DCC Ref. 2565/16 – retention permission refused in May 2016 for an illuminated fascia sign and illuminated awnings to Milano on Excise Walk, due to their impact on a sensitive conservation and residential area;
- DCC Ref. 2115/14 – permission refused in March 2014 for three signs to the adjacent AIG office building at 30 North Wall Quay, due to their visual impact on the conservation area and as the proposals would be contrary to the provisions of the Development Plan.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z5 – City Centre' within the Dublin City Development Plan 2016-2022, where it is the stated 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 front half of the site is located within a conservation area that includes buildings fronting onto the north Quays. Chapter 11 of the Plan sets out under policy CHC4 that development in such areas should contribute positively towards the character and distinctiveness of the area. Section 11.1.5.4 of the Plan sets out policy application with respect to conservation areas in the city.
- 5.1.2. Section 9.5.9 of the Plan refers to 'light pollution', and notes that lighting can significantly affect the appearance of buildings and the environment and, therefore, must be carefully and sensitively designed. Relevant policies include:
- SI26 - ensure that the design of external lighting proposals minimises light spillage or pollution in the surrounding environment and has due regard to the residential amenity of the surrounding area.
- 5.1.3. Other relevant sections of the Development Plan include:
- Appendix 19 - Outdoor Advertising Strategy;
 - Appendix 24 – Protected Structures and Buildings in Conservation Areas.

5.2. Environmental Impact Assessment - Preliminary Examination

- 5.2.1. Having regard to the existing development on site, the nature and scale of the proposed development and the location of the site, 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 principal grounds of the first-party appeal can be summarised as follows:

Rationale

- the proposed development is of a high-quality and energy efficient modern design and would improve the appearance of the building and the immediate quayside area at night-time;
- the proposed lighting would enhance safety, security and legibility of the public realm in this area;
- proposals would mark the hotels location and significance along the North Wall Quay;

Policy

- the proposed development is in accordance with the Z5 land-use zoning objectives for the site;
- the appeal site is not located in an Architectural Conservation Area (ACA) and there is no clear definition of what features in the conservation area it is considered by the Planning Authority to warrant maintaining;
- the special interest / value of this area relates to the buildings' relationship with the quays and not the specific buildings;

Assessment

- the Planning Authority was overly rigid in its interpretation of planning policy and ultimately in their assessment of the proposed development;
- in their initial consideration of the Section 5 Declaration (DCC Ref. Expp. 0486/18) regarding the proposed lighting to the hotel, the Planning Authority was positively disposed towards a planning application for lighting;

Precedent

- there is extensive precedent for development of this nature in the immediate environs, including lighting to buildings along the quays and commercial buildings;
- there is a variety of different types of lighting in this area;

Residential Amenity

- it is acknowledged that there may be indirect impacts on residences in the Clarion Quay development. To address this the applicant proposes to omit the strip lighting on the western elevation along Excise Walk, thus avoiding any light spillage or pollution into this area.

6.2. Planning Authority Response

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

6.3. Observations

6.3.1. Three observations were received in total, including one from TII, referring the Board to the content of their previous submission to the Planning Authority. An observation was submitted on behalf of five residents or owners of apartments within the adjacent Clarion Quay development. Another observation was submitted on behalf of the board of directors of Clarion Quay Management Ltd., who are understood to manage elements of the adjacent Clarion Quay development. These observations can be summarised as follows:

Policy

- the proposed lighting would be contrary to signage standards for the Docklands area and land-use zoning objectives for the area, while also impacting on the setting of the conservation area;
- the proposed signage would be very prominent when viewed from the quays, including Samuel Beckett Bridge, and would set a dangerous precedent for similar development;
- the DDDA Shopfront and Signage Guidelines 2003 remain applicable;
- Section 7.2.5.3 of the Development Plan outlines that the city quays require special care in terms of development proposals;

Residential Amenity

- proposals would have a negative impact for the residents of Blocks 1 to 6 in Clarion Quay, as a result of light spillage into living areas;

Precedent

- there are examples of illuminated signage in the Conservation Area, which do not have the necessary planning permissions in place and there are other examples where planning permission has been refused (DCC Ref. 2565/16 – Milano's & DCC Ref. 2115/14 - AIG) or where illumination of permitted signage has been restricted via condition (DCC Ref. WEB1408/16 - M&S). Some of the existing signage along the quays predates the DDDA 2003 guidelines;
- permission was previously refused under ABP Ref. PL29N.243371 (DCC Ref. WEB1031/14) for two signs to the front of the hotel, due to the impact on a conservation area;
- the Board's reasoning for refusing the signage under ABP Ref. 300638 (DCC Ref. 4073/17) should be applied in determining the subject proposals;

Other Matters

- the appeal site has been subject of enforcement notices in relation to illuminated signage and the site notices were not displayed as per the application documentation;
- the applicant has to date failed to remove the mounted-lettering sign at fourth-floor level, which was refused retention permission under ABP Ref. 300638 (DCC Ref. 4073/17), despite enforcement procedures being commenced by the Planning Authority (under DCC Ref. E0521/18).

7.0 Assessment

7.1. Introduction

- 7.1.1. I consider the substantive planning issues arising from the grounds of appeal and in assessing the proposed development are as follows:

- Impact on Visual Amenities;
- Impact on Residential Amenities.

7.2. Impact on Visual Amenities

- 7.2.1. The Planning Authority decided to refuse planning permission for the proposed development in part based on the impact of the design and extent of illumination on the designated River Liffey conservation area, which would be in contravention of Policy CHC4 of the Dublin City Development Plan 2016-2022. The Planning Authority report providing an assessment of the proposed development noted the extent of lighting currently on the quayside and submitted that the proposed lighting would render the appearance of the building incongruous with the adjoining properties and the wider conservation area.
- 7.2.2. The grounds of appeal question the nature and planning status of the conservation area objectives pertaining to the River Liffey quayside, as well as asserting that the proposed development would enhance the appearance of the hotel building on site and the immediate quayside area, where there is extensive existing precedent for similar lighting to that proposed. In opposing the development, the observers to the appeal who are representing the residents and owners of the adjacent Clarion Quay development, offer insights into the planning history for the area, primarily relating to advertisement signage proposals for various buildings along the quayside, Excise Walk and Mayor Street Lower.
- 7.2.3. In September 2014, the Board refused planning permission (under ABP Ref. PL29N.243371) for individually-mounted lettering at roof level and a 9.7m-high projection sign, both to the front of the subject hotel, due to their impact on a designated conservation area and as the proposed development would be contrary to Development Plan policies with respect to advertisement signage. Subsequently, in January 2015, the DDDA permitted signage (under DCC Ref. DD685) at fourth-floor level on the southern elevation of the hotel, albeit with a condition requiring the reduction of the lettering height from 840mm to 500mm. Retention planning permission (under ABP Ref. 300638) was subsequently refused by the Board in May 2018 for backlit individually-mounted lettering ('The Spencer'), at fourth-floor level on the southern elevation of the hotel, due to its impact on the conservation area and as

its retention would be contrary to Development Plan policies with respect to advertisement signage.

- 7.2.4. The Planning Authority has decided the following recent neighbouring applications, which included an element of illumination to the respective building signage. Planning permission for three signs to the adjacent AIG office building was refused by the Planning Authority (under DCC Ref. 2115/14) in March 2014, due to their visual impact on the conservation area and as the proposals would be contrary to the associated provisions of the Development Plan. Permission to retain an illuminated fascia sign and illuminated awnings was also refused in May 2016 by the Planning Authority (under DCC Ref. 2565/16), due to their impact on a sensitive conservation and residential area. Lettering to the M&S shopfront on Mayor Square and the installation of a non-illuminated projecting sign on Excise Walk was granted planning permission by the Planning Authority (under DCC Ref. WEB1408/16) in January 2017, however this was subject to the signage not being illuminated.
- 7.2.5. The proposed interchangeable coloured-lighting scheme would be located within a conservation area, and it is noted that policy CHC4 of the Development Plan aims to protect the special interest and character of this conservation area. Section 24.3 to Appendix 24 of the Development Plan provides guidance for lighting to buildings in conservation areas, noting that well-designed exterior lighting of landmark buildings, structures and spaces can play an important role in defining the character of the built heritage. The Plan addresses the need for lighting proposals to be considerate of the appearance of a building or an area, as well as the need to use low wattage light sources and discreet light fixtures and to avoid unnecessary over lighting. In considering applications for lighting schemes, Section 24.3 to Appendix 24 of the Plan outlines that the need for lighting schemes should be clearly established and, to avoid conflict, proposals should demonstrate how lighting schemes would enhance and protect the character of an area and/or co-ordinate with any adjacent lighting schemes.
- 7.2.6. The immediate quayside area is characterised by a mix of modern buildings, including tourist and visitor attractions, hotels, offices and residential apartment blocks. The extent of illumination to the vast majority of these buildings is typical for a city-centre location and many of the buildings feature discreet illuminated signage

referring to the respective occupants. For the most part, lighting in the area is unvariegated.

- 7.2.7. The IFSC building, the Convention Centre and the Three Arena all feature more distinctive coloured-lighting schemes that serve to mark their location and significance along the quayside at night-time.
- 7.2.8. While I note that the above quayside buildings feature tailored-lighting schemes, there is reasoning for this given their significance as prime destinations and markers along the quayside frontage. While areas and buildings within the city feature extensive levels of night-time illumination via lighting schemes, there is a clear planning policy direction along this part of the north quayside, as a designated conservation area, to maintain the distinctive and iconic appearance of this sensitive vista, which invariably requires limitations on the extent of illumination to buildings. The immediate buildings along the quayside, including the AIG building and the Clarion Quay development, do not feature a similar level of lighting to that proposed for the appeal site, and the proposed lighting would result in the subject hotel premises standing out along the quayside at night-time, as is noted by the appellants as part of their reason for the development. Consequently, I am satisfied that the proposed interchangeable coloured lighting would result in the hotel occupying a visually dominant position along the quayside at night-time.
- 7.2.9. There is not a substantive need for the subject hotel building to stand out from the remainder of the quayside buildings, particularly given its function and the aspiration contained within Policy CHC4 of the Development Plan to maintain the special character and interest of the quayside. While the lighting would have limited impact on the character of the hotel building and its visual impact would be solely confined to night-time hours, it would not enhance the night-time quayside setting, nor would it serve to enable the special character and interest of the area to be maintained. Furthermore, the proposed development would potentially lead to further similar and haphazard proposals for lighting along the quayside, which would be to the detriment of the setting and appearance of the River Liffey conservation area.
- 7.2.10. In conclusion, the proposed development would detract from the character and setting of the conservation area, therefore, I recommend that permission should be

refused for the proposed lighting on the basis of its impact on the visual amenities of the area.

7.3. Impact on Residential Amenities

- 7.3.1. The Planning Authority decided to refuse planning permission for the proposed development in part based on the design, the extent of illumination and the location of the development close to residential properties, which would be contrary to Policy SI26 of the Development Plan, which aims to minimise light spillage in residential areas. The observers to the appeal assert that the proposals would have a negative impact for the residents of the adjacent Clarion Quay apartments along Excise Walk, as a result of light spillage into the living areas of their apartments. The applicant has stated that they no longer wish to pursue permission for the originally proposed strip lighting along the western elevation of the hotel onto Excise Walk. Accordingly, with the proposed lighting only limited to the quayside, the potential for undue impacts on the amenities of residents along Excise Walk, including those in the Clarion Quay development, would not arise, and permission for the development should not be withheld for this reason.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that planning permission should be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. It is considered that the proposed lighting, by reason of its location within a designated conservation area, and by reason of the design, interchangeable-colour, extent of illumination and position on the quayside elevation, would be contrary to Policy CHC4 of the Dublin City Development Plan 2016-2022, which aims to maintain the special character and interest of the River Liffey quayside conservation area, would detract from the character and setting of this conservation area, would seriously injure the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

26th June 2019