



An
Bord
Pleanála

Inspector's Report ABP-313639-22

Development

Removal of telecommunications equipment (previously granted permission under Dublin City Council Pl. Ref. 2321/08) and installation of replacement telecommunications equipment and all associated site development works on the rooftop. Aras Mhuic Dhiarmada is a PROTECTED STRUCTURE.

Location

Aras Mhic Dhiarmada, Store Street,
Dublin 1

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3423/22

Applicant(s)

Three Ireland (Hutchison) Limited

Type of Application

Retention

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Three Ireland (Hutchison) Limited

Observer(s)

None

Date of Site Inspection

29/06/2023

Inspector

Lorraine Dockery

1.0 Site Location and Description

1.1 The application site relates to Busáras, Central Bus Station at Store Street, Dublin 1. It is located on Store Street, adjacent the Luas line. Busáras, was designed for Córas Iompair Éireann by Irish Architect Michael Scott, and was completed in 1953. It is acknowledged as being the first large modern building of significant architectural merit built in the city. The build was designed to incorporate a bus terminus at ground level and presently operates as such.

2.0 Proposed Development

2.1 Retention permission is sought for the removal of telecommunications equipment (previously granted permission under Dublin City Council Pl. Ref. 2321/08) and installation of replacement telecommunications equipment and all associated site development works on the rooftop.

2.2 The installation comprises of:

- 3 No. 1.38m log antennas which were wall mounted on the rooftop plant rooms (2 at the Store Street side of the building and 1 at the Busáras Central Station side) have been removed and replaced with 3 No. 1.5m long and 3 No. 0.6m long antennas to provide for newer technologies, being mounted on 3 No. crucifix type pole supports adjacent to the locations of the removed antennas to hold the new antennas
- 3 new crucifix pole mounts and antennas attached are not greater than 3m in overall height above the rooftop and are lower in height than the previously consented wall mounted antennas.
- 1 no. 300mm radio link dish relocated onto a crucifix type pole
- Previously consented cabinet on the rooftop to be reused
- Ancillary safety handrails cable trays, ladders, gantry poles, GPS and all other

ancillary equipment to be reused with the addition of new safety handrails to supplement and match the existing and previously consented handrails for maintenance safety purposes.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for one reason, as follows:

1. The development to be retained constitutes a visually obtrusive and dominant form, causing serious injury to the special architectural character, detail, design and legibility of this internationally significant 20th century structure which contributes positively to the setting and special interest of the surrounding Conservation Area. The development therefore contravenes Policies CHC2 and CHC4 of the Dublin City Council Development Plan 2016-2022 and seriously injures the residential and visual amenities of the surrounding area, setting an undesirable precedent for similar developments contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the planner's report include:

- Report reflects decision of planning authority; recommends refusal of permission

3.2.2 Other Technical Reports

Drainage Division- No objections, subject to conditions

Conservation Officer- Refusal recommended

3.3 Prescribed Bodies

Transport Infrastructure Ireland- No objections, subject to conditions

4.0 Planning History

There is quite a protracted planning history on this site, see Planner's Report for further details. The most relevant case to this appeal is:

2321/08

Retention permission GRANTED for 3 no face mounted antennas and 3 no. point to point dishes fixed to the roof and associated equipment. This was previously granted under Planning Reg. Ref: 1454/04

5.0 Policy and Context

5.1 National Policy

- Telecommunications Antennae and Support Structures- Guidelines for Planning Authorities 1996
- Circular Letter PL07/12

5.2 Development Plan

The Dublin City Development Plan 2022-2028 is the operative Development Plan for the area.

Zoning- 'Objective Z5' which seeks 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'.

The subject site is a Protected Structure (RPS Ref No 7853) and is located within a Red- Hatch Conservation area

Section 15.18.5 Telecommunications and Digital Connectivity

Section 11.5.1 The Record of Protected Structures

Policy BHA2 that development will conserve and enhance protected structures and their curtilage...

Policy BHA9- To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps.

5.3 Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

5.4 EIA Screening

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, 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

An appeal was received on behalf of the first party, which may be broadly summarised as follows:

- Architectural Heritage Impact Assessment and Technical Justification submitted with appeal documentation
- Proposed development needs to be cited in cell search area in order to achieve radio coverage objectives for the local area- existing site forms part of an integrated telecommunications network system to provide best possible network performance within limitations of this urban environment- provides mobile voice and data coverage to city centre, train lines and IFSC and surrounding wider area
- Technical Justification- evidence demonstrates the technical need for the existing site to maintain a high quality coverage for 3G/4G

- Acknowledges that while the location of telecommunication antennae on Protected Structures should be avoided, they are not completely ruled out as per The Guidelines for planning authorities
- Principle of fixing telecommunication equipment to Bus Aras was established in 2004 on a temporary basis and confirmed in permission granted in 2008. Not accepted that the proposal represents an intensification of use; precedent has been established
- Proposal would not have any appreciable impact on the architectural heritage significance of Busáras or its setting, nor would there be any appreciable impact on the character or settings of the Custom House and other protected structures in the vicinity. Difference in scale between what was previously permitted and that proposed is modest at a distance. No significant environmental impacts as a result of the proposed development
- New design mitigation proposed (set out on pg. 14 of Appeal Statement prepared by entrust) including change of colouring to colour coded with elements of building that they are sited against; removal of handrail and replacement with collapsible handrail

6.2 Planning Authority Response

None

6.3 Observations

None

6.4 Further Responses

None

7.0 Assessment

- 7.1 I have read all the documentation attached to this file including inter alia, the appeal submission, the report of the Planning Authority, in addition to having visited the site.

- 7.2 The primary planning issue, as I consider it, is addressing the reason for refusal which issued from the planning authority.
- 7.3 I highlight to the Board that a new City Development Plan has been adopted, since the decision of the planning authority issued.
- 7.4 Planning permission for the proposed development was refused for one reason, namely that the development to be retained constitutes a visually obtrusive and dominant form, causing serious injury to the special architectural character, detail, design and legibility of this internationally significant 20th century structure which contributes positively to the setting and special interest of the surrounding Conservation Area. The development therefore contravenes Policies CHC2 and CHC4 of the Dublin City Council Development Plan 2016-2022 and seriously injures the residential and visual amenities of the surrounding area, setting an undesirable precedent for similar developments contrary to the proper planning and sustainable development of the area.
- 7.5 The first party refute this reason for refusal and I have summarised their argument in the relevant section above.
- 7.6 At the outset, I acknowledge the need for telecommunication infrastructure, in accordance with national government policy and the need to place such infrastructure on appropriate sites in appropriate locations. I also acknowledge policy contained within the operative City Development Plan in support of the facilitation of telecommunications infrastructure in appropriate locations. I have had regard to the appellant's submitted documentation in this regard, in particular details relating to the site selection process and technical justification for the proposed development, together with the submitted Architectural Heritage Impact Assessment. I acknowledge that as technologies change and improve, differing infrastructure is required.
- 7.7 I acknowledge that a temporary permission was granted on this site for telecommunication infrastructure in 2004 and confirmed with a full grant of permission in 2008. Infrastructure has been in place on the building for that duration of time and I concur with the appellants that such a use has therefore been established on the site.

7.8 Section 15.15.5 of the operative City Development Plan deals with such issues and states that 'in assessing proposals for telecommunication antennae and support structures, factors such as the object in the wider townscape and the position of the object with respect to the skyline will be closely examined. These factors will be carefully considered when assessing proposals in a designated conservation area, open space amenity area, historic park, or in the vicinity of protected buildings, special views or prospects, monuments or sites of archaeological importance. The location of antennae or support structures within any of these areas or in proximity to protected structures, archaeological sites and other monuments should be avoided'. In this instance, I note that the subject building on which it is proposed to retain this infrastructure (Busáras), is designated as a Protected Structure (Ref. 7852) within the operative City Development Plan and it is surrounded by numerous other Protected Structures, including some of international importance, for example, the Custom House. The site itself is considered to be of 'International' significance within the National Inventory of Architectural Heritage (NIAH Ref. 50010126). It is considered to be of Architectural, Artistic, Social and Technical Significance to be compared with the finest architectural heritage of other countries. The building is also located with a Red-Hatch Conservation Area which includes the Custom House, Custom House Quays and the River Liffey and Policy BHA 9 of the operative City Development Plan applies to such areas.

7.9 I note the concerns expressed by the Conservation Officer of the planning authority, particularly in relation to the colour of the installations and the pedestrian nature of the railings. In response to same, the appellants have proposed modifications to these including colour coding the installations and replacement of the railings with collapsible railings. I refer the Board to the detailed report of the Conservation Officer in this regard.

7.10 My opinion is that while permission was granted in 2004 and 2008 for telecommunication installations, I note that neither of these applications appear to have been appealed to An Bord Pleanála. While the use has been established on the site, I am of the opinion that what may have been acceptable almost 20 years ago, when the initial temporary permission was granted, is not necessarily acceptable by today's standards. In the 2008 Planner's Report, it is clearly stated that 'The equipment proposed are located below roof line and off corners and I am of

the opinion that ... blend in with the structure so as not to be clearly visible from ground level'. The structures currently proposed are not located below the roof line nor off corners.

- 7.11 I am of the opinion that some Protected Structures are more unique and iconic than others. Bus Aras is recognised as a significant modern movement building on an international context and the NIAH states that Busáras is widely considered the building that announced the arrival of International Modernism in Ireland. Given its recognised international significance, in combination with its sensitive location, proximate to other significant Protected Structures, I am of the opinion that an alternative location should be explored for such infrastructure. Irrespective of the previous planning history, I am of the opinion that buildings of such international importance should be protected from inappropriate, insensitive developments. I have examined the proposal from a number of viewpoints and note that the subject infrastructure is most visible when viewed from a distance. The development constitutes a visually obtrusive and dominant form, causing serious injury to the special architectural character and legibility of this internationally significant 20th century structure. Although of somewhat limited scale, I am of the opinion that in combination and incrementally, the proposal detract from the special architectural character and appearance of this internationally significant building and is therefore not in compliance with Policy BHA2 of the operative City Development Plan. In addition, the proposal does not contribute positively to the character and distinctiveness of the Red-Hatch Conservation Area in which it is located, nor does it take opportunities to protect and enhance the character and appearance of the area and its setting. The proposal is therefore considered not to be in compliance with Policy BHA9 of the operative City Development Plan although I highlight to the Board that my greater concern lies with the impact of the proposal on the Protected Structure itself rather than the wider Conservation Area.
- 7.12 The granting of permission for such installations could lead to the setting of precedent for further similar installations, with an argument being put forward referencing this current application as precedent (as is the argument made by the appellants the subject of this appeal referencing previous grants of permission on this site).

Conclusion

- 7.13 While I acknowledge the need for telecommunication installations within such locations, I am of the opinion that having regard to all of the above, the subject internationally significant 20th century structure is not an appropriate location for such infrastructure and that other more appropriate structures in the vicinity should be explored for this infrastructure. I consider that the proposed development is not in accordance with the provisions of the operative City Development Plan and is not in accordance with the proper planning and sustainable development of the area.

8.0 Appropriate Assessment Screening

- 8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 Recommendation

- 9.1 I recommend permission be REFUSED.

10.0 Reasons and Considerations

The development to be retained constitutes a visually obtrusive and dominant form, causing serious injury to the special architectural character, detail, design and legibility of this internationally significant 20th century structure which contributes positively to the setting and special interest of the surrounding Conservation Area. The development therefore contravenes Policy BHA 2 and BHA 9 of the Dublin City Council Development Plan 2022-2028. The proposal is considered to seriously injure the visual amenities of the surrounding area, would set an undesirable precedent for similar developments and is considered to be contrary to the proper planning and sustainable development of the area

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Lorraine Dockery
Senior Planning Inspector

29th June 2023