



An
Bord
Pleanála

Inspector's Report ABP-319020-24A

Development	Construction of a rear extension to the existing building providing 3 residential units and all associated site works.
Location	19-27 Exchequer Street, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3433/23
Applicant(s)	Tullington Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Tullington Limited
Observer(s)	Eircom Ltd t.a. Eir
Date of Site Inspection	17 th January 2025
Inspector	Joe Bonner

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1.0 Introduction

1.1. Context

- 1.1.1. This is an addendum report to the first Inspector's report in respect of ABP 319020-24, dated the 29th of January 2025, which includes a description of the proposed development, a planning assessment, EIA Screening, Appropriate Assessment Screening, a recommendation, Reasons and Considerations and Conditions.

1.2. Board Direction seeking Further Information and Addendum Report

- 1.2.1. The Board in its Direction BD-018921-25, dated the 14th of February 2025 stated:
- ‘The Board decided in the interest of justice, to invoke the provisions of s.131 of the 2000 Act and to circulate the submission received on the 11/03/2024 from the observer, Eircom Ltd., to the planning authority and the applicant, and allow 3 weeks for a response. Should any submission be received in response to the s.131 notice, the file and any additional information received should be returned to the reporting inspector for an addendum report. File then to be forwarded to the Board for further consideration.
- 1.2.2. On the 6th of March 2025, the Board issued a Section 131 Notice that requested that the applicant (Tullington Limited) and the Planning Authority Dublin City Council make submissions or observations on or before the 26th of March 2025, in respect of the submission received by the board on the 11th of March 2024 from Eircom Limited.
- 1.2.3. The Section 131 Notice stated that if no submission or observation is received before the end of the specified period, the Board will proceed to determine the appeal without further notice, in accordance with section 133 of the 2000 Act.
- 1.2.4. A response was received on behalf of the applicant, but the board did not receive a response from the Planning Authority. It was not deemed necessary to invoke Section 131 in relation to the applicant's response to the Section 131 Notice, so the file was returned to the inspector to prepare an addendum report.
- ### **1.3. Addendum Report**
- 1.4. This addendum report considers the applicant's response to the above request and the submission received following circulation of Eircom Limited's observation on the appeal under Section 131. A recommendation, for the Board's consideration is

provided in conclusion, following the consideration of the responses to the Section 131 notice.

2.0 Applicant's Response

2.1. Documentation Received

2.1.1. The applicant in its response received by the board on 21st of March 2025 submitted the following:

- An email cover page.
- A response prepared by the applicant's planning consultants, to the submission received by the board on the 11/03/2024 from the observer, Eircom Ltd (Eir).

2.1.2. At section 2.0 the applicant summarised the observation as follows:

- Eir sought the attachment of an addition refusal reason on the basis that the proposed development would adversely detract from the development potential of the Eir site, would depreciate its value and set an undesirable precedent.

2.1.3. The applicant considers that the other key points in the observation are:

- Dublin City Council failed to address physical differences in the extant permission for office use versus the proposed development for residential use.
- Residential use is considered more sensitive in land use terms than office use due to potential for 24 hour occupation.
- The proposed window and balcony arrangement and northern elevation are unacceptable and would result in significant and adverse overlooking of the Eir site.
- DCC's ' cursory assessment' fails to acknowledge the development potential of the Eir landholding which is a 'far more substantial, inner city brownfield regeneration site'.
- The applicant provides a 3D aerial photograph to illustrate their point that it is eminently clear that the Eir site is currently overlooked by multiple properties and from all aspects, including the existing Exchequer Chambers building on the application site, as well as more modern developments including the Wrens Urban Nest Hotel that is an extensive glazed facade directly facing the site, on the opposite

side Andrews Lane and it must be accepted that its future development will require some degree of overlooking, that is typical of inner city sites.

- The applicant makes an unsupported statement that the Eir site has been sold to multiple different owners, and while it has development potential as an infill site, it is enclosed by historic structures and is adjacent to an Architectural Conservation Area (ACA), that will require any development thereon to be sensitive to its receiving context.

2.2. Section 3.0 of the applicant's response is set out under a number of headings, being:

Physical changes to extant permission including changes windows and balcony arrangement

- With respect to Eir's concern that the planning authority did not address the physical difference between the extant office permission and proposed residential use, with specific reference to the proposed balcony and windows arrangement in the northern elevation being unacceptable, as it would result in significant and adverse overlooking of the Eir site, the applicant asks the board to note that the existing Exchequer Chambers building was built in 1901 (124 years ago), and all through that time, its 36 windows with 60.67sqm of glazing have overlooked the Eir site.
- The existing office permission, which has been partially constructed, has been extended until November 2028 and its completion is in abeyance pending the outcome of this appeal. The extant grant of permission reduces the number of windows on the northern elevation by six and the area of glazing by 20.11sqm or 33%.
- There is already significant overlooking of the Eir site and the proposed development would not have a material impact as the current proposal is for nine opes, three more than the permitted office development, but three fewer than at overlook the Eir site at present.
- A precedent exists in the form of a large scale modern extension that has been built with north facing windows at the rear of 11-17 Exchequer Street directly overlooking the Eir site. This building was originally owned by Eir but has recently been sold.

Consideration of Suitability of Site for Residential Land Use

- While Eir states residential is a more sensitive land use to office, many development plan policies support residential including QHSN7 'to resist the reverse of loss of residential use on upper floors' and QHSN6 'promote and support residential consolidation and sustainable intensification through ...infill development...use of upper floors'.
- Residential development would provide passive surveillance of Andrews Lane in the evenings. The upper floor of the Exchange Chambers building currently provides two apartments that currently overlook the Eir site.

Consideration of the Development Potential of the Eir Landholding

- The applicant is advised that parts of the substantial Eir site that have clear residential potential have been sold. Any future development on the Eir site will need to respect the existing context, which is predominantly historic buildings, which are separated by the Eir site.
- Being surrounded by properties on every side, the development of the Eir site must accept a degree of overlooking and its development potential should not be used as a reason to stymie or stagnate the development potential of the original properties in the vicinity.
- The applicant supports the principle of the redevelopment of the Eir site and its development would act as a catalyst for the further improvement of Andrews Lane.

2.3. Applicants Conclusion

- The third party concerns have been fully addressed.
- The proposed development is proposed to future-proof the continued use of the upper floors of the existing building and will secure the long-term sustainability and vitality of the ground floor retail and restaurant use of the Exchequer Chambers building.

3.0 **Assessment**

Planning Authority

- 3.1. At section 6.3 of my initial report of the 29th of January 2025, I set out the grounds of the observation from the adjoining landowner Eir Ltd (Eir) at section 6.3 to include that the planning authority had failed to appropriately acknowledge the full impact of

the proposed development on the development potential of the adjacent Eir site. The planning authority did not respond to the Section 131 Notice issued by the board.

Applicant

- 3.2. The applicant responded to the Section 131 Notice and they do not agree with the observations expressed by Eir. They point out that the existing building on the site already contains two top floor apartments that directly overlook the Eir site, while multiple other buildings overlook the site from all directions and in close proximity thereto. I agree that there should be an expectation that any development on the site would involve a degree of overlooking.
- 3.2.1. The applicant highlighted an existing building in close proximity to the west of the application site and immediately adjacent to the Eir site which has windows directly overlooking the Eir site. They claim that this was until recently owned by Eir, however, no evidence to support this was provided by the applicant. The building is identified in figure 3.4 on page 6 of the applicant response. The building identified by the applicant is part of the Fallon and Byrne retail and restaurant building and the applicant has not indicated that the windows are part of a comparable residential use.
- 3.2.2. The applicant points out that there are currently 36 windows at the rear of the building that was built in 1901 and have overlooked the Eir site for all of the intervening period. They state that the proposed development will result in a reduction of three windows overlooking the site compared to the existing arrangement. They also point out that there is an extant grant of permission on the site for an office extension in the same place, which would have 3 fewer windows (but no balconies) and that if this proposed development is not granted permission, that the permitted office development will be constructed. The applicant considers that residential development would provide more passive surveillance and security to the adjoining Andrews Lane than office use would.
- 3.2.3. The applicant disagrees that a second refusal reason should be attached and pointed out that development plan policy supports development of the nature proposed.
- 3.2.4. I am satisfied that the applicant has addressed the issue of residential versus office use.

- 3.2.5. The applicant did not address the potential impact of the proposed balconies on the future development potential of the Eir site, other than in the context that the site is already overlooked from all directions and that any proposed development on the Eir site would expect to be overlooked.
- 3.3. The applicant does not directly address Eir's reference to a requirement in Appendix 18 to place an equal burden on neighbouring sites to provide a degree of separation from opposing windows. I considered that the observers reference to Appendix 18 does not apply to the proposed development as it refers to residential extension in the context of exempted development and not to apartments.
- 3.3.1. In my initial report I concluded that the proposed development would provide 3 apartments in excess of the minimum floor area space requirement and that it would be acceptable from the perspective of sunlight and daylight. I also noted that there were existing residential uses in the application site, only 6.6m from the boundary with the Eir site and that the Z5 zoning status of the Eir site permitted 55 different land uses, one of which was residential. I also concluded that the proposed development would not significantly affect the development potential of or depreciate the value of the observer's car park, and that the proposed apartments were of a sufficient size that they would not be significantly affected by a development on the Eir site, and that the proposed development would not contravene development plan policies and would not have a negative impact on zones of Archaeological Constraint or interest.
- 3.3.2. The recommendation in my initial report was to **grant** planning permission subject to the attachment of conditions.

4.0 Recommendation

- 4.1. I refer to my previous Inspector's Report and recommendation to grant planning permission in respect of this application. Having regard to the response provided by the applicant to the Section 131 Notice, the information received in response thereto does not alter the conclusions reached in my initial report and I still recommend that permission should be granted, subject to the conditions set out in Section 11.0 of my report of the 29th of January 2024.
- 4.2. 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.

Joe Bonner

Senior Planning Inspector

09/04/2025