



An
Bord
Pleanála

Inspector's Report

ABP-319367-24

Development

PROTECTED STRUCTURE:

Replacement of existing display
with LED advertising panel

Location

17-22 Parkgate Street, Dublin 8

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

5047/23

Applicant(s)

Global Media and Entertainment
(Ireland) Limited

Type of Application

Permission

Planning Authority Decision

Refusal for 2 no. reasons

Type of Appeal

First Party v. Refusal

Appellant(s)

Global Media and Entertainment
(Ireland) Limited

Observer(s)

None

Date of Site Inspection

21st May 2024

1.0 Site Location and Description

- 1.1. The appeal site is located on Parkgate Street close to and north of the junction of Parkgate Street, Wolfe Tone Quay, Sean Heuston Bridge and Benburb Street. Parkgate Street is one of the principal thoroughfares to the west of the city and provides direct access onto the City Quays and is also the gateway to Phoenix Park to the west of the appeal site.
- 1.2. The appeal site comprises a single storey structure along the southern boundary of 17-22 Parkgate Street (Kingsbridge House –Protected Structure Ref. No. 6314) which is fronted by a timber panel facade. It is sited directly adjacent to the public footpath and incorporates a single-storey shed with a timber plank frontage/fence onto which a tri-vision advertising panel is affixed.

2.0 Proposed Development

- 2.1. This application relates to the proposed replacement of the existing advertising panel with a LED display sign in approximately the same location as the current advertising panels. The existing tri-vision advertising display is 15.48m x 3.0m with an overall surface area 46.44m². The replacement advertising panel will have a surface area is 34m² (11.84m x 2.88m). The proposal also includes the lowering of existing wall cladding by approximately 1.07m across the entire length of the cladding.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the Planning Authority on 23rd February 2024 for the following 2 no. reasons:

1. *The proposed digital advertising display structure, by reason of its scale and proportions, appearance and location along the front curtilage boundary of Kingsbridge House – a Protected Structure, would have an adverse visual impact on and would seriously detract from and injure the special architectural character and legibility of both the Protected Structure and its setting within the Liffey Conservation Area which includes an ‘Internationally’ significant*

Protected Structures and which forms part of a significant vista and prospect within the City. The proposed development would therefore be contrary to policies of the Dublin City Development Plan 2022 – 2028, specifically Policies BHA2, which seeks to ensure development will conserve and enhance protected structures and their curtilage, Policy BHA9 which seeks to protect the special interest and character of all Dublin's Conservation Areas and Policy CCUV45 which seeks to consider appropriately designed and located advertising structures primarily with reference to zoning objectives and permitted advertising and as a result, would overall be contrary to the proper planning and sustainable development of the area.

2. Having regard to the siting of the proposed development at a prominent location at Parkgate Street, and in particular to the proposed nature of illumination and intensification of use, it is considered that the proposed development would be visually obtrusive and would seriously impact on the overall visual character of the immediate streetscape. The Planning Authority is not satisfied on the basis of the information submitted that the advertising displays proposed for removal represent a sufficient planning gain with regard to the rationalisation of external media advertising within the public realm. The proposed development would accordingly be contrary to Policy CCUV45 and Appendix 17 of the Dublin City Development Plan 2022-2028 which seeks to control the location and design of outdoor advertising structures in the city to generate and urban realm of the highest possible quality.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planner's Report notes the following main points:

- The subject site is Zoned Z5 – City Centre where advertising structures are deemed 'Open for Consideration', Permission may be granted if the proposed development is compatible with the overall policies and objectives for the zone.
- The site location is also within Zone 1/Zone 4 as identified in the Development Plan's Outdoor Advertising Strategy (Appendix 17) which places a strong presumption against outdoor advertising in these areas.

- It is considered that the proposal to upgrade an advertising display would intensify an undesirable form of development that would directly undermine the presumption against outdoor advertising within Zone 1 & Zone 4 areas.
- The proposed replacement advertising display is not consistent with the Outdoor Advertising Strategy which aims is to contribute to the creation of a high-quality public realm. The proposal is therefore contrary to Policy CCUV45 of the Dublin City Development Plan 2022-2028.
- The location of the subject site is visually prominent and therefore sensitive, and the proposed upgrade to a digital display would effectively enhance and expand upon a large advertising display which adds to the visual clutter to the public realm and thereby detracts from the visual amenity of the area.
- The proposal if granted permission, would undermine the implementation of the strategic regeneration objectives for Heuston & Environs SDRA 7 and fail to positively contribute to the public realm or civic design, character and dignity, which is the main objective of the Z5 zoning.
- The proposed nature of the LED advertising display would seriously injure the architectural character and legibility of both the Protected Structure, neighbouring Protected Structures and would not contribute positively to the character and distinctiveness of the River Liffey Conservation Area. The proposal is therefore contrary to Policies BHA2 and BHA9 of the City Development Plan.
- The Conservation Officer has advised that the proposed signage would still conceal a large part of the protected structure and would affect its setting and special architectural character, particularly when viewed from the front, along the River Liffey Conservation Area. The proposed signage would also be visible from number of other significant locations in the vicinity including the public realm outside Heuston Station.
- The Planner's Report notes that neither EIA nor AA is required in relation to the proposed development.

3.2.2. Other Technical Reports

The Conservation Section made the following points:

- While it is recognised that there would be a reduction in the overall area of the signage by 26% from 46.44m² to 34m², when considered relative to the structure on which it is located, the scale of the proposed panel is still large and overly dominant. It is also noted that the proposed new signage would be illuminated which would increase its visual impact.
- The proposed signage would still conceal a large part of the protected structure (Kingsbridge House, RPS Ref. 6314) and would affect its curtilage (setting) and special architectural character, particularly when viewed from the front, along the River Liffey red hatched Conservation Area.
- The use of an illuminated sign in this location is not considered sympathetic to the building on which is located nor to the neighbouring protected structures.

The Drainage Planning, Policy and Development Control Section (DPPDC) had no objection to this development, subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works.

The Transportation Planning Division made the following points:

- The display of advertisements at this location has been consistent since at least 2009. It is also noted that the speed limit on the Parkgate Street in this location is 50km/h. The proposed sign would not impact the safety of pedestrians, the accessibility of the footpath / roadway, or the flow of traffic.
- Having regard to the above, this division has no objection to the proposed development subject to conditions including a 10 year temporary permission condition.

3.2.3. Prescribed Bodies

- Transport Infrastructure Ireland – no observations to make on the proposed development.

3.2.4. Observations

- None received.

4.0 Planning History

4.1. On the Appeal Site

- Ref. ABP-300821-18 (3539/17) - Permission granted on appeal for the demolition of the existing single storey shed structure and associated billboard fronting onto Parkgate Street; (b) the construction of a standalone four storey building fronting onto Parkgate Street comprising of café with front and rear terrace areas, office entrance foyer with associated ancillary accommodation, all at ground floor level with office accommodation at upper floor levels (overall area 1,156m²); (c) a three storey extension to the rear of the existing central office building fronting onto Parkgate Street with new fourth floor level over existing building with associated internal alterations overall additional area 151m².
- Ref. 3022/97- Permission granted for rotating sign (tri-vision) on 18th March 1998 subject to 2 no. conditions. Condition 2 of the permission stated:

The proposed advertising structure shall be removed after the expiration of 3 years from the date of grant of this permission. REASON: To enable the Planning Authority to review the retention of the panel for a further period having regard to the policies prevailing at that time.

4.2. In the Vicinity of the Site

- Ref. ABP-314336-22 (4076/22) - Permission refused at 3-4, Usher's Quay, Dublin 8 for Replacement of a 6.4m x 7.7m conventional advertising poster (including 150mm wide frame all round and a 1.25m apron), with overhead lights and an overall height of 10.95m off the ground; with a 5.2m x 7.7m digital advertising display unit (with 200mm wide frame all round) without overhead lights, with an overall height of 12.2m off the ground, on the side (east) elevation to Lower Bridge Street, Dublin 8, on the corner with Usher's Quay, Dublin 8.

The 2 no. reasons for refusal by the Board are as follows:

1. *The proposed digital advertising display structure, by reason of its scale and proportions, appearance and location on the elevation of this*

Protected Structure, would have an adverse visual impact on and would seriously detract from and injure the special architectural character and legibility of both the Protected Structure and its setting within a Conservation Area which includes an 'Internationally' significant Protected Structure and which forms part of a significant vista and prospect within the city. The proposed development would be contrary to Policies BHA2, BHA9 and CCU45 of the Dublin City Council Development Plan 2022-2028.

2. The Board is not satisfied on the basis of the submission made in connection with the application and the appeal, that the advertising displays proposed for removal represent a sufficient planning gain with regard to the rationalisation of external media advertising within the public realm. Therefore, the proposal is considered to be in accordance with Appendix 17 of the Dublin City Development Plan 2022-2028.

5.0 Policy and Context

5.1. Development Plan

The Dublin City Development Plan 2022-2028 is the statutory plan for the area within which the appeal site is situated.

The appeal site is located in Zoning Z5: (City Centre) - To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity. Advertising structures are open for consideration under this zoning objective.

The site lies within the River Liffey Conservation Area as designated by the redhatched line. It is noted that Heuston Station and its Environs is also earmarked as strategic development and regeneration area (SDRA). Kingsbridge House –is on the

Record of Protected Structures within the Dublin City Development Plan 2022-2028 (RPS Ref: Ref. No. 6314).

- Policy BHA2: which states that to 'ensure that the special interest of Protected Structures is protected. Development will conserve and enhance Protected Structures and their curtilage.

Section 15.15.2.8 deals with lighting of Protected Structures and buildings in Conservation Areas.

Section 11.5.3 sets out that red hatched areas require special care in terms of development proposals and that the Council will encourage development which enhances the setting and character of Conservation Areas.

- Policy BHA9: 'To protect the special interest and character of all Dublin's Conservation Areas.

Advertising Policies

- Policy CCUV45: 'To consider appropriately designed and located advertising structures primarily with reference to the zoning objectives and permitted advertising uses and with secondary consideration of the outdoor advertising strategy. In all such cases, the structures must be of high quality design and materials, and must not obstruct or endanger road users or pedestrians, nor impede free pedestrian movement and accessibility of the footpath or roadway'.

Appendix 17 - 'Outdoor Advertising Strategy'

Dublin City Council's 'Outdoor Advertising Strategy' for the City as provided for in Policy CCUV45, is set out in Appendix 17 in which the city is divided into Zones. Each zone has its own set of objectives and standards for outdoor advertising having regard to the sensitivity and capacity to accept outdoor advertising. Having regard to the Map at Figure 1: Zones of Advertising Control of Appendix 17, it is considered that the site is the subject of the following two zones:

- Zone 1: "This zone encompasses those areas that are most vulnerable and sensitive and primarily relates to the Georgian area of Dublin City. There is a strong presumption against outdoor advertising in this zone".
- Zone 4: "Zone of existing and potential high amenity related to the waterways and the coast is inappropriate for advertising. This zone includes the River Liffey corridor, other river corridors, the canal corridors and along the campshires in the Docklands. There is a strong presumption against outdoor advertising in this zone".

It further advises that any upgrading and/ or replacement of existing outdoor advertising (e.g. tri-vision, scrolling, electronic, digital) will only be permitted if it is acceptable in amenity/ safety terms and an agreement is made to decommission at least one other display panel in the city and to extinguish the license for that panel. The purpose of this measure is to ensure that other operators do not use the site. Where such an arrangement is not feasible, consideration may be given to replacement signage which would be of a significantly smaller scale; sensitive to the setting; and, of high quality, robust design and materials.

5.2. Natural Heritage Designations

- There are no natural heritage designations located in the vicinity of the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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. The First Party puts forward grounds of appeal which are, in summary, as follows:

- Within the Z5 zoning where the appeal site is located, advertising signage is deemed 'Open for Consideration' and there are multiple examples of other similar signs permitted in the area – see Section 3.2 of the First Party appeal submission.
- The existing advertising panel which was erected on foot of permission Ref. 3022/97 is now due for renewal and the proposed LED advertising panel would be a visual improvement on the current situation.
- The proposed LED advertising panel ($11.84 \text{ m} \times 2.88 \text{ m} = 34.09 \text{ m}^2$) is 12.35 m^2 or 26% smaller in area than the existing tri-vision panel ($15.48 \text{ m} \times 3 \text{ m} = 46.44 \text{ m}^2$) in place and will have the same luminescence and rate of advert turnover as at present.
- For examples of planning permission for advertisement panels with luminescence levels of a maximum of 300 cd/m^2 see Section 2.8 of the First

Party appeal. The proposed LED advertising panel will have a maximum of 250 cd/m^2 luminescence.

- The proposed LED advertising panel is therefore less visually prominent than the existing signage and as the screen wall to which the proposed LED advertising panel is to be affixed will be lowered, the view of the Protected Structure, Kingsbridge House, behind (to the north) of the advertisement will be more visible from the public realm. The proposed LED advertising panel, while located on the curtilage of the Protected Structure, does not detract from the setting of this building.
- The River Liffey Conservation Area is not a statutory Architectural Conservation Area (ACA) and the Heritage Impact Report submitted with the planning application concludes that there is a long history of advertising at this location and that the proposed LED advertising panel will not have a negative impact on the heritage value of the area.

- The offer to decommission two existing advertising panels located at North Strand Road, Dublin 1 and Phillipsburg Avenue, Dublin 3 when the existing panel at the appeal site is decommissioned and replaced by the proposed LED advertising panel represents a considerable planning gain and is in accordance with the Advertising Strategy set down in the Dublin City Council Development Plan 2022-2028 (Appendix 17).
- The proposed LED advertising panel is also in compliance with policies BHA2 (Protected Structures), BHA9 (Conservation Areas) and CCUV45 (Outdoor Advertising Policy) set down in the Dublin City Council Development Plan 2022-2028.
- Reference by the Planning Authority to the proposed LED advertising panel compromising or impeding the future development of the site which lies within the Heuston and Environment SDRA7 are incorrect as the agreement of the First Party with the site owner regarding the rental of the advertising space requires the removal of the advertisement should be permission be granted and implemented for the redevelopment of the appeal site area which has a previous and now expired grant of permission for redevelopment – Ref. ABP300821-18 (DCC Ref. 3539/17).

The First Party appeal submission also contains a lengthy critique of the assessment by the Planning Authority of the original application, the relevant points of which have been listed above, and the other points raised by the First Party may be viewed by the Board in Section 4.0 of the First Party submission.

6.2. Planning Authority Response

- No response has been received from the Planning Authority.

6.3. Observations

- None received.

7.0 **Assessment**

- 7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main

issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The assessment below therefore addresses the visual impact associated with the proposed development and also the potential impact that the proposed development may have on the heritage value of the Protected Structure to which it is proposed to be affixed and on the character of the Conservation Area within which the appeal site is located. The issues of Development Plan policy, planning gain and AA Screening are also addressed in this assessment.

7.2. Visual & Heritage Impact

- 7.2.1. The main argument in favour of the proposed LED advertising panel is that historically there has been advertising at this location for an extended period of time, that the current advertising panel needs to be replaced and that the proposed smaller and better designed and placed advertising panel would be better than the existing signage at the appeal site. In addition, the appellant holds the view that the LED advertising panel as proposed will not have an adverse impact on the setting or a Protected Structure or on the character of the Conservation Area (not a designated ACA) within which the appeal site is located and would hence be compliant with Development Plan policy regarding advertising strategy.
- 7.2.2. The Planning Authority hold a contrary view that notwithstanding the smaller extent of the proposed LED advertising panel, the proposed development will have an adverse visual impact on the character of the area and on the setting of the Protected Structure within whose curtilage the appeal site is located and that the proposed LED panel would be contrary to Development Plan policy, especially the Advertising and Signage Strategy contained in Appendix 17 of the Development Plan.
- 7.2.3. I would note firstly that there has been advertising at this location in some form as documented in the Heritage Impact Report submitted with the planning application. I also note that the existing advertising panel was constructed on foot of planning permission Ref. Ref. 3022/97- Permission granted for rotating sign (tri-vision) on 18th March 1998 Condition 2 of this permission limiting the duration of the advertising panel structure to three years after which it was to be removed. The limited period of

permission was *“To enable the Planning Authority to review the retention of the panel for a further period having regard to the policies prevailing at that time.”*

- 7.2.4. The existing advertising panel which it is proposed to replace is therefore unlawful but immune from enforcement action due to the expiry of the time limits attached to enforcement proceedings. The First Party appears to suggest that if permission is not forthcoming for the proposed smaller LED advertising panel, then the existing larger advertising panel will be left in situ.
- 7.2.5. The First Party view that the setting of the Protected Structure will be enhanced by the reduction in height of the screening to which the existing and proposed advertising panels are affixed and also due to the smaller size of the replacement panel is not supported by the evidence provided by a site inspection.
- 7.2.6. It is correct to say that the current advertising panel is visually obtrusive and has a detrimental impact on the amenity and heritage value of the area but this is primarily due to its location and not necessarily to its large size. A smaller advertising panel, such as the proposed LED advertising panel, would also have a detrimental impact on the visual and historic character of the area. The ideal planning scenario for the site is the complete removal of the existing advertising panel either by its natural demise or by the redevelopment of the site.
- 7.2.7. Historical precedent for advertising at this location does not necessarily provide a good precedent for future development at this highly visible and historically sensitive location and the First Party reliance on this point is not valid in my opinion.
- 7.2.8. Ironically, the proposal to lower the screen fencing to which the proposed LED advertising panel is to be affixed, only serves to further highlight the presence of Kingsbridge House the Protected Structure whose setting is currently, and would in future be compromised by the presence of an advertising panel, regardless of size, directly in front of its main elevation. The proposed LED panel would be elevated above the background wood panel wall and its visibility level would be heightened as would the negative visual impact associated with the proposed development.
- 7.2.9. For the First Party to forward an argument that the proposed LED advertising panel would be acceptable in terms of its visual impact on the area within which it is to be located stretches credulity to its limit. The proposed LED advertising panel would

indeed have a very significant detrimental impact on the visual amenity of the area, on the setting of a Protected Structure and on the character of the riverside Conservation Area.

7.2.10. The proposed LED advertising panel would be contrary to the heritage, Conservation Area and advertising policy and strategy contained in the Dublin City Development Plan 2022-2028 and should accordingly be refused on this basis.

7.3. Planning Gain

7.3.1. The First Party offered as planning gain that in return for permission for the replacement advertising panel at the appeal site, the decommissioning and removal of two advertising panels at North Strand Road, Dublin 1 and Phillipsburg Avenue, Dublin 3. The Planning Authority decided that this “planning gain” did not outweigh the negative visual and heritage impacts associated with the proposed LED advertising panel which is now the subject of this appeal.

7.3.2. Appendix 17 of the Development Plan which sets out the Council’s ‘Advertising and Signage Strategy’ is not specific in relation to the concept of the removal of an existing advertising panel in order to gain planning permission for a new advertising panel on the basis that the use of advertising panels will be thus rationalised. The relevant text in Appendix 17 states:

“Any upgrading and/ or replacement of existing outdoor advertising (e.g. television, scrolling, electronic, digital) will only be permitted if it is acceptable in amenity/ safety terms and an agreement is made to decommission at least one other display panel in the city and to extinguish the licence for that panel. The purpose of this measure is to ensure that other operators do not use the site. Where such an arrangement is not feasible, consideration may be given to replacement signage which would be of a significantly smaller scale; sensitive to the setting; and, of high quality, robust design and materials” [Section 1.0, Appendix 17].

7.3.3. There does not appear to be any requirement to decommission a sign in the vicinity of the proposed new/replacement sign as long as a display panel is decommissioned somewhere in the city. Notwithstanding this factor, while planning gain can form part of the assessment of a given development proposal, it would be commonly held that

such gain would be associated with or in close proximity to the proposed development which forms the subject of the application. In this case, the First Party offers up as planning gain the decommissioning of two existing advertising panels that are physically remote from the existing advertising panel at the appeal site.

7.3.4. The advertising panel at North Strand Road, Dublin 1 is approximately 3.2km NE of the appeal site and Phillipsburg Avenue, Dublin 3 is approximately 3.8km NE of the appeal site. It should be noted by the Board that the advertising panel on North Strand Road is located in Zone 3 (radial/orbital routes) where advertising panels are permissible subject to standard development controls being applied, and that the panel on Phillipsburg Avenue is located in Zone 6 (primarily residential) where advertising panels are deemed to be inappropriate. Neither of these locations are comparable to the location of the appeal site in a Zone1/4 zone.

7.3.5. In addition, in terms of the prominence of their locations compared to the location of the appeal site, neither of the two other sites is as visible or as visually prominent. Similarly, the character and the heritage value of the North Strand and Phillipsburg Avenue are not comparable with the location of the appeal site, which is affixed to a Protected Structure, is located within close proximity to other Protected Structures and is also located in a riverside Conservation Area.

7.3.6. Having regard to the above, I would concur with the Planning Authority assessment of this aspect of the proposed development and I am of the view that the offer of planning gain associated with the proposed development is without actual substance and should be disregarded by the Board.

7.4. AA Screening

Having regard to the relatively minor development proposed within an existing housing estate and the distance from 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.

8.0 Recommendation

I recommend that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The proposed LED advertising panel, by reason of its scale and proportions, appearance and location on the curtilage of a Protected Structure, would have an adverse visual impact on and would seriously detract from and injure the special architectural character and legibility of both the Protected Structure and its setting within a Conservation Area which includes an ‘Internationally’ significant Protected Structure and which forms part of a significant vista and prospect within the city. The proposed development would be contrary to Policies BHA2, BHA9 and CCU45 of the Dublin City Council Development Plan 2022- 2028.

2. The Board is not satisfied on the basis of the submission made in connection with the application and the appeal, that the advertising displays proposed for removal represent a sufficient planning gain with regard to the rationalisation of external media advertising within the public realm. Therefore, the proposal is not considered to be in accordance with Appendix 17 of the Dublin City Development Plan 20222028.

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.

Bernard Dee
Planning Inspector

29th May 2024

Appendix 1 - Form 1 EIA Pre-Screening
[EIA not submitted]

<p>An Bord Pleanála</p> <p>Case Reference</p>	<p>ABP-319367-24</p>
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Proposed Development Summary	Replacement of an existing tri-vision advertising panel with a LED advertising panel		
Development Address	17-22 Parkgate Street, Dublin 8		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	√
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion

No		N/A		No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?				
No			Preliminary Examination required	
Yes			Screening Determination required	

Inspector: _____

Date: 29th May 2024 Bernard

Dee