



An  
Bord  
Pleanála

## Inspector's Report ABP-320239-24

<b>Development</b>	Amend previous permissions (reg. ref. 4166/16 / ABP ref. 29S.248884 and reg. ref. 3543/19 / ABP ref. 29S.305602) to increase floor space and all associated site works.
<b>Location</b>	74-75 Baggot Street Lower, Dublin 2
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3640/24
<b>Applicant(s)</b>	Irish Life Assurance PLC
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Irish Life Assurance PLC
<b>Date of Site Inspection</b>	30 <sup>th</sup> October 2024
<b>Inspector</b>	Sarah O'Mahony

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## **1.0 Site Location and Description**

- 1.1. The 0.1ha site is located southeast of Dublin city centre at the junction of Wilton Terrace and Baggot Street Lower which is also the R816 regional road. The Grand Canal is situated at the southeastern side of Wilton Terrace and the site overlooks McCartney Bridge at the southeast and Grand Canal Lock C4 at the southwest.
- 1.2. Adjoining land to the north and west is in office use and comprises similar 4-5 storey contemporary office blocks finished with large expanses of curtain glazing.
- 1.3. Construction was underway at the site during the site inspection in October 2024 with scaffolding, netting and hoarding encapsulating the entire 5-storey building. Glimpses of the concrete skeleton structure were noted however. Footpaths are still accessible around the curtilage of the site however part of a traffic laneway on Lower Baggot Street has been removed and the footpath diverted onto the carriageway, via a new temporary footpath, in order to accommodate construction deliveries and access to the site.
- 1.4. Advertising signage on the hoarding refers to the building as 'The Frame', providing a net zero office of approximately 40,000 square feet.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for development which comprises the following:
  - An amendment to two previous grants of planning permission (reg. ref. 4166/16 / ABP ref. 29S.248884 and reg. ref. 3543/19 / ABP ref. 29S.305602) for a six-storey detached building (four storeys above ground, lower ground floor and basement) with predominantly office use permitted but some café/restaurant is also permitted on the ground floor. The amendment proposes to:
    - Remove a triple height void which permitted an atrium in the reception area and also remove breakout rooms at first and second floor levels.
    - Replace the void and breakout rooms with 136m<sup>2</sup> total additional floorspace across first and second floors. Total increase of GFA from 6,943 m<sup>2</sup> to 7,079m<sup>2</sup>.

- No alterations will occur to the external facades or height of the building which is currently under construction.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

A notification of decision to refuse permission was issued by Dublin City Council on 27<sup>th</sup> June 2024 for one reason as follows:

- The proposed reduction in atrium height and infilling of the floor plate at first and second floor levels would result in a reduction in the quality of the overall permitted development. The reduction in atrium height would be contrary to policy SC19 and Section 14.14.4 of the Dublin City Development Plan 2022-2028 as it would have a negative impact on the integrity of the permitted scheme and would represent a reduction in contribution to the public realm by way of architectural response at this prominent junction on the Grand Canal, which is within a Conservation Area. The proposed loss of the atrium space and associated changes to the design would seriously injure the visual amenities of the permitted building, would create a precedent for similar type undesirable development, and would be contrary to the provisions of the Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

- The Planners report recommendation to refuse permission is consistent with the notification of decision which issued.
- The report noted how the proposal formed part of a recent application for alterations to the parent permission, and how the Planning Authority conditioned that this element of the proposal be omitted from those proposed alterations. The report considered that a rationale for implementing the changes has not been addressed in this subject application and therefore the Planning Authority's opinion also remains the same, that it is contrary to Section 15.14.4 and reduces the standard of amenity

for future employees. It was considered that the permitted design provides for a more open elevation and visual relief at the prominent corner location and it concludes that the permitted design was of a higher architectural quality.

- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

#### 3.2.2. Other Technical Reports

- Transportation Planning Division: No objection subject to conditions including submission of a revised cycle parking layout.
- Drainage Division: No objection subject to conditions regarding compliance with codes of practice and the conditions relating to the previous grants of permission on the site.

#### 3.3. Prescribed Bodies

- Transport Infrastructure Ireland: No objection subject to application of a Section 49 special financial contribution applicable to the Luas Line Levy, if the development is not included in a list of Section 49 exemptions from the scheme.

#### 3.4. Third Party Observations

- One observation received requesting the Planning Authority to satisfy themselves that the proposal does not amount to an over intensification of the use of the site.

### 4.0 Planning History

- Reg. Ref. 4166/16 / ABP ref. 29S.248884: Planning permission granted for demolition of the existing 5 storey over lower ground floor office development on the site (c.2,290 sqm, [c.15.70m high with roof plant extending to overall height of c. 18.94m]) and demolition of its lower ground floor single storey annex building (c.365 sqm - partially underground with roof car park above for 11 no. car park spaces with vehicular access from Wilton Terrace) and the construction of a new 6 storey office development (7,024 sqm [24.05m high]) over 2 basement levels including the following elements: removal of existing vehicular access from Wilton Terrace (with future vehicular access from Baggot Street Lower via Pembroke Row); provision of

14 no. car parking spaces and 56 no. bicycle spaces together with main plant, storage areas, waste facilities and staff facilities at basement levels, ESB substation to rear (at basement-01 level); provision of cafe and office space at ground floor level and office space above; sunken rooftop plant and all ancillary development, landscaping and site works above and below ground.

- Reg. Ref. 3543/19 / ABP ref. 29S.305602: Planning permission granted to amend a permission granted under Reg. Ref. 4166/16 (ABP 29S.248884), and includes an overall increase over the permitted gross floorspace of c. 495 sq m (from c.6,331 to c.6,826 sq.m). There will be no increase in the permitted height of five storeys (c.21.9m). The development proposes widening the footprint of the permitted building by c.1.5 metres northwards along part of its northern elevation (with associated elevational changes); changes to the permitted atrium space at the main entrance (with associated elevational changes); replacing the permitted vehicle access ramp to the basement level -2) car park (access via Pembroke Row) with two car lifts and an increase of 3 car spaces (from 11 to 14) and 36 bicycle spaces (from 44 to 80) with associated improvements to shower/changing facilities (relocated from basement level -2 to -1). The proposed amendments also include an increase in basement plant provision (to improve environmental ratings to nZeb compliant), conversion to 'office/ancillary office' use of c.585 sq.m of space at Basement -1 (previously permitted as 'staff facilities'), relocating/rearranging internal cores to improve internal floor layout, minor adjustments to floor-to-floor heights, widening of lightwells (to enhance light and amenity at basement level-01) and all associated works, including landscaping, above and below ground.

- Reg. Ref. 4528/23: Planning permission granted to amend a permission granted under Reg. Ref. 4166/16 (ABP 29.S 248884) as previously amended under Reg. Ref. 3543/19 (ABP 29S.305602) and includes an overall increase over the permitted gross floorspace of c.240 sqm (from c.6,826 to c. 7066 sqm) the additional floor space will be in office use). There will no increase in parapet height. The lift overrun height will increase from (0.25m to 0.75m) and 1.8m high acoustic louvres will be installed in the plant area. Proposed changes to the permitted elevations include installation of metal gates to Pembroke Row, Baggot Street Lower and Wilton Terrace, skylights and light wells to the lower ground floor (Bagot Street Lower/Wilton Terrace, respectively) with vents to the basement car park (Wilton

Terrace) and rain screen cladding to the west elevation. The development also proposes internal works and reconfigurations (with associated changes to the external facade) including the reduction in atrium height from 3 floors to 2 floors, reconfiguration a stair-core, change of use of c.10 sq. m (from c.80 sqm to c.70 sqm) of permitted ground floor cafe/restaurant use to office use, an increase in the number of cycles places from 80 to 88 with the additional cycle spaces to be located at ground floor level outside the permitted building and includes all associated works, including landscaping, above and below ground. Condition no. 4 is set out as follows:

*“The following elements shall be permanently omitted from the proposed development.*

*The reduction in atrium height from 3 floors to 2*

*Change of use of c. 10 sq. m. (from 80 sqm to c. 70 sqm) of permitted ground floor café/restaurant use to office use*

*Reason: In the interests of orderly development.”*

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (referred to hereafter as the Development Plan). The site is situated on lands zoned Z6 for employment / enterprise purposes which has an objective to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.
- 5.1.2. The site is also situated within a conservation area as identified on the zoning maps by red hatching. I note however that the conservation areas are separate and distinct to Architectural Conservation Areas (ACAs). The Plan states that they do not have a statutory basis in the same manner as ACAs but are recognised as areas with conservation merit which warrant protection. Policy BHA9 therefore applies which seeks to protect the special interest and character of conservation areas. The full text of BHA9 is attached. It states:

*Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.*

- 5.1.3. The Planning Authority refer to Policy SC19 in the stated refusal reason. Policy SC19 is set out in Chapter 4 of the Development Plan regarding Shape and Structure of the City and it seeks to promote high quality architecture as follows:

*To promote development which positively contributes to the city's built and natural environment, promotes healthy placemaking and incorporates exemplar standards of high-quality, sustainable and inclusive urban design and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods*

- 5.1.4. The reason for refusal also refers to Section 14.14.4 of the Development Plan however such a section does not appear to exist. I consider the reference is a typographical error which should have referred to Section 15.14.4 regarding office development as set out in the Development Management chapter. The full text of Section 15.14.4 is attached however I note that it requires a high standard of amenity for future employees.

## **5.2. Natural Heritage Designations**

- 5.2.1. The site is situated immediately adjacent to the Grand Canal proposed Natural Heritage Area (pNHA). The canal is situated southeast of Wilton Terrace which forms the southeastern boundary of the site.
- 5.2.2. The site is also situated 2.2km west of the South Dublin Bay and River Tolka Estuary Special Protection Area as well as 2.15km west of South Dublin Bay Special Area of Conservation and proposed Natural Heritage Area.

## **5.3. EIA Screening**

- 5.3.1. See completed Forms 1 and 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the



Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. Environmental Impact Assessment, therefore, is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.2. The first party appeal against the single reason for refusal puts forward the following grounds of appeal:

- Modest scale of proposal represents 2% increase in floor area on employment zoned lands.
- 32m separation to opposing buildings means overlooking will not be significant.
- No external works are proposed.
- Examples provided of similar new office developments on prominent corner locations which do not provide such height atriums and therefore concludes that an undesirable precedent would not be set.
- Rationale provided which outlines how the design of the atrium is not appropriate from a design perspective as its evolution has resulted in an undesirable form which does not give a sense of void and scale. This is particularly compromised by the permitted breakout space at first floor.
- The rationale also outlines market requirements and potential clients require the space to be laid out. Flexibility in floorplates is required and the current layout has a 4m unusable pinchpoint which is inefficient and compromises future tenants.
- The proposed 4m floor to ceiling height of the atrium would continue to provide a sense of scale while retaining adaptability in the floorplates.
- Ultimately, the Applicant considers that the proposed design would not result in any reduction in quality, is not contrary to Policy SC19 or Section 15.14.4 of the Development Plan.
- The Planning Authority's Planning Report does not provide any evidence based reason for the decision made. It is unclear how the development would seriously

injure the visual amenity of the permitted development when no external works are proposed. It is unclear how infilling the atrium is contrary to proper planning.

- Infilling of the atrium could be carried out under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

### 6.3. **Planning Authority Response**

- The Planning Authority requests that the decision be upheld however in the event it is overturned, a request is made to attach both Section 48 and Section 49 development contribution conditions.

## 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the principle of development is in accordance with the 'Z6' zoning on the site as set out in the Dublin City Development Plan 2022-2028.

7.2. The main issues in this appeal therefore are as follows:

- Compliance with policy SC19 of the Development Plan,
- Compliance with Section 15.14.4 of the Development Plan,
- Visual impact
- Other issues

### 7.3. **Compliance with SC19**

7.3.1. Policy SC19 seeks to promote high quality architecture. I note that the proposed development relates to internal works only with no perceptible change externally. In this regard, the development would not affect the city's environment and heritage or its *diverse range of locally distinctive neighbourhoods*.

7.3.2. I understand the Planning Authority's perspective regarding the impact to internal amenity for future employees in the building as well as the requirement to uphold and advocate for high standards of architecture. A double or triple height atrium void would be an impressive and enlightening space to work in, however, I also

understand the Applicant's rationale regarding the floorplates, viability of the building and that the proposed atrium would still be 4m in height which is an engaging feature in the reception area where all staff would pass through.

- 7.3.3. In my opinion loss of a significant or dramatic atrium does represent a depreciation in the architectural quality, however I do not consider it to be sufficient to warrant a refusal of permission. I consider that the proposed layout would still represent a high quality of internal amenity for future tenants as the 4m high atrium would still provide a welcoming entrance space while the additional floorspace adjacent the curtain wall would afford additional opportunities for staff to engage with views out the windows.

#### **7.4. Compliance with Section 15.14.4**

- 7.4.1. Section 15.14.4 of the Development Plan sets out requirements for design statements and additional public realm improvements for different thresholds of schemes. It requires a high standard of internal amenity as well as demonstration of how the scheme interacts with the public at street level. As set out in the previous paragraph, I do not consider that the internal amenity levels will be significantly impacted by the proposed development.
- 7.4.2. I also note that while the works are all proposed above ground floor and therefore do not strictly facilitate public realm improvements, they would in fact result in additional active frontage by providing a floorspace adjacent windows for tenants to provide passive surveillance where currently none is afforded. In this regard I consider that the proposed development does comply with Section 15.14.4 of the Development Plan.

#### **7.5. Visual Impact**

- 7.5.1. The reason for refusal states that the proposed development would result in a '*Reduction in contribution to the public realm by way of architectural response at this prominent junction on the Grand Canal, which is within a conservation area*'. Policy BHA9 is pertinent in this regard as it refers to the surrounding conservation area and requires proposed development to *protect and enhance the character and appearance of the area and its setting*.
- 7.5.2. I agree with the grounds of appeal that it is unclear how this decision was reached when no external works are proposed. In my opinion there is no potential for the

proposal to injure the visual amenity of the permitted building or the public realm and the works would not result in any perceptible change externally beyond the presence of people and furniture visible through windows at upper floors.

- 7.5.3. In conclusion, I consider that the proposed development would not result in any negative visual or architectural impact. I also consider the proposal complies with Policy BHA9 and would not impact the conservation area.

#### **7.6. Other issues**

- 7.6.1. In my opinion there are no other material planning issues arising from the proposed amendment to the design. The additional 136m<sup>2</sup> of floorspace would accommodate additional staff however I do not consider it to be a material change in terms of car or bicycle parking, generation of traffic or a change to the use or intensification of the building.

### **8.0 AA Screening**

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The site is not situated within or adjacent to any European Site. The subject site is located 2.2km west of the South Dublin Bay and River Tolka Estuary Special Protection Area as well as 2.15km west of South Dublin Bay Special Area of Conservation.
- 8.3. The proposed development is set out previously in this report in more detail but in summary comprises infilling 136m<sup>2</sup> of a permitted atrium at first and second floor to provide additional floorspace in a permitted office development.
- 8.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- 8.5. The small scale and internal nature of the proposed development in a serviced urban area, distance from European sites and urban nature of intervening habitats, absence of ecological pathways to any European sites

- 8.6. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

## 9.0 Recommendation

I recommend that planning permission be granted, subject to conditions, for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

Having regard to the location and character of the site and surrounding area in a serviced urban area together with the provisions of the Dublin City Development Plan 2022-2028 including Policies SC19 and BHA9 and Section 15.14.4, as well as the 'Z6' zoning objective for the area, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable. The development would comply with local design guidance and would not seriously injure the visual amenity of the area. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 03<sup>rd</sup> May 2024, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the</p>

	<p>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.</p> <p>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.</p>
3.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City 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.</p> <p>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.</p>

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.

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Sarah O'Mahony

Planning Inspector

18<sup>th</sup> November 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	320239-24		
<b>Proposed Development Summary</b>	Internal alterations to permitted office building to provide additional office floorspace.		
<b>Development Address</b>	74-75 Baggot Street Lower, Dublin 2		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>			
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	
<b>Yes</b>	X	Class 10 (b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts	Proceed to Q.4



		of a built-up area and 20 hectares elsewhere.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

## Form 2

### EIA Preliminary Examination

**The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.**

**This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.**

#### Characteristics of proposed development

(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).

The development comprises internal alterations only to a permitted development which is currently under construction. No demolition works or external works are required to facilitate the development. It does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.

#### Location of development

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).

The site is situated in an urban and serviced area. The Grand Canal pNHA is situated in close proximity however there is little likelihood of any hydrological connectivity between the internal areas of work and the pNHA as no external works are proposed with this development.

Similarly, the site is situated in a conservation area however the internal nature of the works will not impact the architecture of the area.

<b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the minor scale of the works proposed to provide 136m <sup>2</sup> of floorspace across two floors together with the internal nature of the works and the serviced nature of the urban area in which the site is situated, the likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	No

Inspector: \_\_\_\_\_ Date: 18<sup>th</sup> November 2024

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)