



An
Bord
Pleanála

Inspector's Report

ABP-321302-24

Development	Change of use of ground floor and lower ground floor from office use to educational use consisting of four number classrooms and associated facilities. Permission sought for new signage to internal courtyard area and modification of escape route on southern elevation to allow for disabled refuge point		
Location	2, Iveagh Court, Block B, Harcourt Street, Dublin 2, D02 R640.		
Planning Authority Ref.	Dublin City Council South Reference No. 4042-24		
Applicant(s)	CAPA The Global Education Network Limited.		
Type of Application	Permission	PA Decision	Grant Permission with Conditions.
Type of Appeal	Third Party	Appellant	Cedar Real Estate Investments ICAV
Observer(s)	None on file		
Date of Site Inspection	25.02.2025	Inspector	Des Johnson

1. Site Location/ and Description

1.1 The site is to the north-eastern side of Charlemont Street in Dublin 2. It bounds Albert Place West to the south east and Harcourt Lane to the north east. There is a courtyard to the north west.

1.2 There is a six-storey building at this location. The appeal premises occupies part of the lower ground floor and ground floor of this building. There is residential use of the upper floors of the building and underground carparking.

1.3 Access to the appeal premises can be gained from Albert Place West. There is also an access from the courtyard to the north west, and to the underground carpark. Access to the underground carpark is from Harcourt Lane.

2. Proposed development.

2.1 The proposed development is for change of use of ground floor and lower ground floor from office use to educational use consisting of four number classrooms and associated facilities. Permission sought for new signage to internal courtyard area and modification of escape route on southern elevation to allow for disabled refuge point.

2.2 The floor area to be retained within the site is stated to be 353m². The ground floor area is stated to be 157m² and the lower ground floor area is 196m². The site area is stated to be 403.8m².

2.3 Further Information (FI) was requested on 11th September 2024. The proposal is for 3 standard classrooms and one office which will double as a one-to-one classroom. The 3 no. standard classrooms would have capacity of 18, 24 and 28 respectively. Twelve bike parking spaces are proposed in a full height cage. An additional shower is proposed. Bin storage is at lower basement level. Hours of operation are typically 9am to 6pm. After 6pm occasional ad hoc meetings may take place. At any one time not more than 50 students are expected on a programme. Revised plans are submitted.

3. PA's Decision

3.1 The planning authority granted permission subject to 8 conditions.

3.2 The conditions relate to the following:

1. Standard compliance
2. Drainage requirements
3. Transport Planning Division requirements
4. Opening hours
- 5 Hours of construction
- 6 Adjoining streets to be kept clear of debris etc.

7 Noise levels during construction and demolition phases

8 Compliance with Codes of Practice

3.3 The Planner's report states that the site is zoned Z4 with the objective *to provide and mixed-services facilities*. Education Uses would be permitted in principle subject to compliance with the relevant provisions of the Plan. One observation was received regarding type of use, adequacy of staff/student facilities, and cycle and parking provision. Policy CCE32 seeks to promote Dublin as a national and international education centre/student city. The office accommodation has been vacant for a number of years. Hours of operation that align with the typical working day with the possibility of evening classes would be acceptable. Further Information was recommended and submitted. It is considered that the proposal would not have an adverse impact on the surrounding area.

3.4 The Transport Planning Division report, after FI was submitted, states no objection subject to recommended conditions.

Transport Infrastructure Ireland has no observation to make but, in the case of permission being granted, request a condition for contribution in respect of Light Rail.

Drainage Planning has no objection subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

4. Planning History.

The following is relevant:

Reg Ref: 5577/03 – Permission granted on appeal for change of use from retail/office use to Childcare Facility at lower ground (403sqm) and ground floor (341sqm), with External Play Area on part of 5th floor terrace, at Block B, Iveagh Court.

5.1. Planning Policy

Dublin City Development Plan 2022-2028 was adopted on 2nd November 2022.

The site is in an area zoned Z4 Key Urban Villages/Urban Villages, with the objective *to provide for and improve mixed-services facilities*.

QHSN11 relates to 15 Minute City. It is policy to promote the realisation of the 15-minute city which provides for liveable, sustainable urban neighbourhoods and villages throughout the city that deliver healthy placemaking, high quality housing and well designed, intergenerational and accessible, safe and inclusive public

spaces served by local services, amenities, sports facilities and sustainable modes of public and accessible transport where feasible.

CCE32 relates to Education and the City Economy. It is policy to promote Dublin as a national and international education centre/student city, as set out in national policy, and to facilitate and promote synergies between education, industry and entrepreneurship with an emphasis on retaining talent in the city, facilitating the expansion of existing economic clusters and the establishment of new clusters, and increasing participation in the city's labour force.

5.2 Natural Heritage Designations

South Dublin Bay SAC – c.3.9km to the east

South Dublin Bay and River Tolka Estuary SPA and pNHA – c.3.9km to the east

North Dublin Bay SAC – c.4.5km to the north-east

North Bull Island SPA – c.4.5km to the north-east

Rockabill to Dalkey Island SAC – c.11.5km to the east

6. The Appeal

6.1 The Third-Party grounds of appeal may be summarised as follows:

- Condition 4 of the permission granted extends operating hours far beyond those initially proposed creating potential for adverse impacts on residential amenity, including noise and extra foot traffic.
- There is a transparency issue, as the hours of operation permitted were not those proposed. The principles set out on Section 34(4)(c) are contravened.
- Increased activity during evening and weekend hours is likely to generate higher levels of noise and other disturbances.
- The subject building is predominantly residential. There are residential units directly above the subject unit. Congregation of students in the courtyard and outside the front is likely before and after classes as insufficient internal space is provided.
- Should permission be granted, the operating hours should be limited to 9am – 6pm with only 'ad hoc small meetings' outside these hours.

- There is non-compliance with the Regulations 2001 (as amended). The ground floor map submitted depicts an area larger than the actual property demised at ground-floor level, as it includes the emergency exit area. Any permission outside the leased premises would not be a valid consent. An additional site notice should have been placed on Harcourt Lane. The submitted drawings only show 3 classrooms and are potentially misleading and non-compliant with Article 18. The address given is incorrect. The red line shown is inaccurate. The block plan lacks levels or contours.

6.2 P.A. Response

None on file.

7. EIA Screening

Change of use is not of a Class contained in Schedule 5, Parts 1 or 2 of the Planning and Development Regulations 2001, as amended. The minor works proposed do not constitute a Class.

8.0 Assessment

8.1 The proposal is for change of use of ground floor and lower ground floor from office use to educational use consisting of four number classrooms and associated facilities. The change of use would be over two floors. The floor area is stated to be 353m², with the ground floor area of 157m² and the lower ground floor area of 196m². Permission is also sought for new signage to internal courtyard area and modification of escape route on southern elevation to allow for disabled refuge point. By way of Further Information submission the operating hours would be 9am to 6pm, with occasional meetings after hours. The classrooms proposed would have capacity of 18, 24 and 28, with one classroom doubling as one-to-one educational use with office use.

8.2 The planning authority granted permission subject to 8 conditions, one of which permitted operational hours of 8am to 10pm Mondays to Saturdays (inclusive) and 8am to 9pm Sundays and Bank Holidays (inclusive).

8.3 There is a Third Party appeal. The grounds of appeal contend that the permitted hours of operation greatly exceed the hours indicated by the applicant and have the potential to seriously injure the amenities of residential property in the vicinity, and the

impacts of the extended hours permitted were not fully assessed. They contend that increased activity during evening and weekend hours is likely to generate higher levels of noise and other disturbances. They also contend that the application is non-compliant with the Planning and Development Regulations and, as such, invalid.

8.4 I consider that the assessment should address the following issues:

- Policy
- Potential for Impacts on existing development
- Accessibility
- Adequacy of application
- Appropriate Assessment

Policy

8.5 The site is in an area zoned Z4 with the objective *to provide for and improve mixed-services facilities*. The proposed educational use is permissible under this zoning objective subject to compliance with other provisions of the Plan.

8.6 This is a central location with mixed use development. It is a policy of the Plan to promote Dublin as a national and international education centre/student city, as set out in national policy (Policy CCE32). The site is close to a range of other services and is on a public transport route.

8.7 I submit that the proposed educational use is consistent with both national and Development Plan policy.

Potential for Impacts

8.8 The grounds of appeal state that the planning authority consented to longer operating hours than those indicated by the applicant. They state that the impacts of the 'extended' hours of operation on residential use in the vicinity was not assessed. The planning authority has not responded to the grounds of appeal. In the Planner's report it is stated that given the mixed use nature of the surrounding area, it is considered that align with the typical working day with the possibility of evening classes would be acceptable. The potential for increased impacts from 'extended' hours of operation include noise, gathering of students after classes, and general disturbance.

8.9 On this issue I conclude that, in the event of permission being granted, the hours of operation should be confined to those indicated by of Further Information i.e. 9am to 6pm each day with occasional meetings after 6pm. This is what is indicated by the applicant. Any extension of hours of operation should be the subject of a separate planning of application.

8.10 The applicants state that, at any one time, not more than 50 students are expected on a programme. I conclude that the activities of 50 students during the hours of operation of 9am to 6pm, with occasional meetings after 6pm, would not be seriously injurious to the amenities of residential property, or any other property, in the vicinity. By way of noise, or general disturbance or otherwise.

Accessibility

8.11 This is a centrally located site close to the city centre and within easy distance of a range of public transport routes. The provision of a bicycle cage to serve the proposed development is proposed. I consider that the site is readily accessible. A condition requiring a financial contribution in respect of Light Rail provision should be included in any permission granted.

Adequacy of application

8.12 The grounds of appeal state that the application to the planning authority is not consistent with the Regulations. I consider that the application details, as amended by Further Information, clearly inform the general public of what is proposed, and that the general public would not have been disenfranchised by the public notices or the information submitted.

8.13 The application was submitted by CAPA The Global Education Network Limited. A letter of consent from the property owner accompanies the application.

8.14 I draw the Boards attention to Section 34(13) of the Planning and Development Act 2000, as amended, which states that a person is not entitled to carry out development solely by reason of a permission under this section.

Appropriate Assessment

8.15 I have considered the permitted development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in a central urban mixed-use area close to the city centre, separated from designated European sites as detailed in Section 5 of this report. The proposed development consists of the change of use from office to educational use. No nature conservation concerns are raised. Having regard to the nature of the development, location in an urban setting, and separation from and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10. Recommendation

I recommend that permission for the development proposed be granted.

Reasons & Considerations

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application to the Planning Authority as amended and clarified by Further Information submitted on 27th of September 2024, save as may be required by the conditions attached hereto. Where 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.

Reason: In the interest of clarity.

2. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. The educational facility shall only be open to students and/or members of the public during the times of 08.00 to 18.00, other than for occasional 'ad hoc' meetings outside those hours. In any event the premises shall not be operated beyond 20.00 on any day. Any extension of hours of operation shall be subject to a separate planning permission

Reason: To clarify the extent of the permission granted.

4. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Light Rail 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.

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.

N.B. I consider that the planning authority's conditions 5, 6, 7 and 8 are not necessary and can be omitted.

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.

Des Johnson

Planning Inspector

Date

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	321302-24		
Proposed Development Summary	Change of use from office to educational use.		
Development Address	2, Iveagh Court, Block B, Harcourt Street, Dublin 2, D02 R640.		
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	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)?			
Yes			
No	No		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	N/A		
No	N/A		
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	N/A		

5. Has Schedule 7A information been submitted?		
No	No	
Yes		

Inspector: _____ **Date:** _____