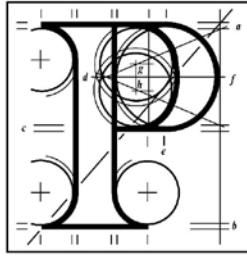


An Bord Pleanála



Inspector's Report

Question: Whether minor internal demolition of some non-original elements making way for the provision of a new wall and floor finishes is or is not development or is or is not exempted development at 1 Rathfarnham Road, Terenure, Dublin 6W (a protected structure).

Referrer: Bank of Ireland

Planning authority: Dublin City Council

Referral ref. no. 0224/15

Site visit: 9th June 2016

Inspector: Hugh D. Morrison

Site

The site comprises the Terenure Branch of the Bank of Ireland, which is located in the centre of Terenure and which is sited in the south western corner of the cross roads formed by the R114 (Terenure Road North and Rathfarnham Road) and the R137 (Terenure Place and Terenure Road East). This bank is of single storey and two storey form. Its front door faces the south western corner of the said cross roads. The bank dates from c. 1933 and it is of Arts and Crafts design.

The current proposal relates to the banking hall on the ground floor. This hall lies behind the lobby that accompanies the front door. It is punctuated by two freestanding columns and it has an ornate corniced ceiling and timber framed arched windows.

The bank is identified as protected structure ref. no. 7020 in the Dublin City Development Plan 2011 – 2017.

Proposal

The applicant has identified the works that would be comprised in the proposal as follows. Please note that no item is denoted as (f).

- (a) Removal of low level interview screens.
- (b) Removal of letter box enclosure.
- (c) Removal of customer service desk.
- (d) Removal of writing bench along RHS of banking hall.
- (e) Removal and relocation of internal ATM.
- (g) Replacement of suspended ceiling tiles to cashiers area.
- (h) Provision of new floor finishes.
- (i) Provision of new light fittings using existing routes.
- (j) Redecoration of walls and ceilings to banking hall.
- (k) Removal and replacement of entrance lobby door reusing brass handles.
- (l) Provision of 2.2m high stud partitions and door screens to form interview rooms 1 and 2. (Selected height of partitions would ensure that existing ornate corniced ceiling is not interfered with or concealed).
- (m) Provision of timber glazed screen to form QRT support room.

(n) Provision of new door to existing frames to lobby reusing existing ironmongery.

(o) Provision of 2.2m high stud partitions to form phone/internet booths and welcome wall. (Selected height of partitions would ensure that existing ornate corniced ceiling is not interfered with or concealed).

(p) Provision of new full height stud partition to form new express banking wall incorporating 2 ATM's, statement printer and priority drop box.

(q) Provision of new bulkhead ceiling over express banking area.

(r) Provision of waiting area.

Planning authority's decision

Following receipt of further information, the planning authority made a split decision. Thus,

- Items (a) – (e) and (g) – (j), inclusive, were deemed to be exempted development as they would be works that would come within the meaning of Sections 4(1)(h) and 57 of the Planning and Development Act, 2000 – 2016, as they would not materially affect the character of the protected structure and, therefore, they would not require planning permission when carried out in line with best conservation practice and under appropriate conservation supervision.
- Items (k) – (r), inclusive, were deemed not to be exempted development as they would not be works that would come within the meaning of Sections 4(1)(h) and 57 of the Planning and Development Act, 2000 – 2016, as they would materially affect the character of the protected structure and, therefore, they would require planning permission.
- Specifically, items (k) – (r), respectfully, were deemed not to be exempted development on the following grounds:

(k) This is a historic door and so, in accordance with A2 of D0082/00, its removal and replacement would be a material alteration.

(l) The sub-division of the banking hall and so, in accordance with A7 of D0082/00, it would materially affect its character.

(m) The sub-division of the banking hall and so, in accordance with A7 of D0082/00, it would materially affect its character.

(n) The sub-division of the banking hall and so, in accordance with A7 of D0082/00, it would materially affect its character.

(o) This is a historic door and so, in accordance with A2 of D0082/00, its removal and replacement would be a material alteration.

(p) It is unclear what affect this item would have on historic fabric and so the precautionary principle is relevant.

(q) It is unclear what affect this item would have on historic fabric and so the precautionary principle is relevant.

(r) The sub-division of the banking hall and so, in accordance with A7 of D0082/00, it would materially affect its character.

The question

The referrer summarised the description of the current proposal as follows: “Minor internal demolitions of some non-original elements making way for provision of new wall and floor finishes.”

In the light of the planning authority’s split decision the applicant has referred items (k) – (r), inclusive, to the Board. However, under Section 5 of the Planning and Development Act, 2000 – 2016, there does not appear to be any scope to disaggregate a proposal between those items that were declared to be both development and exempted development and those that were declared to be development but not exempted development by the planning authority. Accordingly, I consider that the proposal in its entirety needs to be assessed and so the referrer’s summary description cited above remains relevant. However, I consider that this description is insufficiently comprehensive and so I propose that the question be reframed to incorporate the notation used by the referrer: it would thus read as follows: Whether items (a) – (e) and (g) – (r), inclusive, delineated by the referrer as works to be undertaken to the banking hall, a protected structure, at the Terenure Branch of the Bank of Ireland, 1 Rathfarnham Road, Terenure, Dublin 6W, are development and whether they are exempted development.

Planning history

- 1088/93: Signage with 2 ATM’s with glazed canopy: Permitted.
- 0246/94: Installation of an additional night safe: Permitted.
- D0082/00: The subject building was the subject of a declaration, which was made under Section 8 of the Local Government (Planning and Development) Acts, 1963 – 1999, on 17th November 2000. This declaration lists works that would affect the character of the building as a protected structure and works that would not affect the character of this building. The former works would require planning permission, while the latter would not. These lists are set out below.

A: The works which would affect the character of the structure and as a result require planning permission:

- 1. Alterations to fenestration and window openings, and replacement of existing ground and first floor windows.*
- 2. Alterations to front entrance opening.*
- 3. Removal or replacement of decorative rainwater hoppers on facades.*
- 4. Removal of render or stonework, and cleaning/replacement of sandstone on facades.*
- 5. Removal or replacement of tiled roof and chimney stacks.*
- 6. Alterations that would involve loss or damage to original interior elements as follows: doors, door architraves, window linings, staircase, plain or decorative plasterwork and fireplaces.*
- 7. Changes to plan form that would affect the existing ground floor banking hall and smaller first floor rooms.*
- 8. Outward or upward extensions to existing building.*

B: The works which would not affect the character of the structure and as a result do not require planning permission:

- 1. Maintenance and general repair works carried out in accordance with the Department of the Environment "Conservation Guidelines"*
- 2. Painting of previously painted elements to the exterior.*
- 3. Painting and decoration of the interior.*
- 4. Removal of interior partitions where the intention is to return a room or space to its original size and proportions.*
- 5. Upgrading of services such as plumbing or electrical installations.*
- 6. Works authorised by an extant planning permission.*

- 4794/01: Construct a new access ramp and steps to the front entrance: Permitted.

The referrer's case

The referrer has provided a commentary on the planning authority's critique of items (k) – (r), inclusive, as follows:

(k) The subject door is not original but a modern replacement. This door is internal to the front lobby to the banking hall and the impetus for its replacement is simply that it blows open in windy conditions.

(l) The interview rooms 1 and 2 would be formed from demountable partitions that would clearly sub-divide the banking hall floor on a temporary basis only and on one that would not extend to the ceiling.

(m) The screen would provide a 1m wide partition to the QRT that would clearly sub-divide the banking hall floor on a temporary basis only and on one that would not extend to the ceiling.

(n) See item (k).

(o) The phone/internet booths would be formed from demountable partitions that would clearly sub-divide the banking hall floor on a temporary basis only and on one that would not extend to the ceiling.

(p) Details of the express banking wall have been submitted under drawings nos. 15-43/CS-02 and 15-43/CS-04. This wall would be sited under an existing suspended ceiling and so no contact with the ornate corniced ceiling above would occur.

(q) Details of the new bulkhead have been submitted under drawings nos. 15-43/CS-02 and 15-43/CS-04. This bulkhead would be sited under an existing suspended ceiling and so no contact with the ornate corniced ceiling above would occur.

(r) The waiting area would entail loose chairs and tables only.

Response

The planning authority has responded to the referrer's case.

Generally, attention is drawn to the absence of any detailed assessment of the proposed works from the applicant's Conservation Impact Assessment. Attention is also drawn to the inclusion of the subject bank in the 2007 survey entitled "Historic Bank Buildings of Dublin: An Architectural Heritage Inventory and Study of Adaptive Reuse." This survey describes the bank as one of three bank buildings that personify the character of Terenure cross roads. It states that this bank is an unusual mix of Arts and Crafts and Hiberno-Romanesque style.

Specifically, the following commentary is provided to the contested items:

(k) Details of the existing and replacement doors have not been submitted. While the former may not be original, it is not clear when it dates from or whether its design reflects that of an earlier door. Accordingly, the applicant has not demonstrated that this door would not materially affect the character of the protected structure.

(l) Notwithstanding the fact that the partitions would be demountable, their installation would entail changes to the surviving plan form of the banking hall (cf. D0082/00) and so they would have significant potential to materially affect the character of the protected structure.

(m) The installation of the screen would entail changes to the surviving plan form of the banking hall (cf. D0082/00) and so they would have significant potential to materially affect the character of the protected structure.

(n) See item (k).

(o) The installation of the booths would entail changes to the surviving plan form of the banking hall (cf. D0082/00) and so they would have significant potential to materially affect the character of the protected structure.

(p) The wall may require additional fixings to the hidden ceiling above, which may have historic cornices within it. This wall would thus have significant potential to materially affect the character of the protected structure.

(q) The wall may require additional fixings to the hidden ceiling above, which may have historic cornices within it. This wall would thus have significant potential to materially affect the character of the protected structure.

(r) If the proposed waiting area would only entail loose chairs and tables, then it would be exempted development.

Response to response

The referrer has responded to the planning authority's response by stating that it is essentially a justification of their original decision rather than a response to the current referral. They proceed to clarify that in the case of items (p) and (q), no fixtures to the hidden ceiling above would be made. They also draw attention to the planning authority's declaration, under 0265/14, that the removal of non-original timber joinery in the ground floor banking hall (desking and timber framed partitions) and replacement with glass framed partitions (to allow a transparent and accessible banking process and exposure of period detail and fabric to view) was exempted development.

Legislation

Planning and Development Act 2000 – 2016

Section 2(1) of the Planning and Development Act, 2000 – 2016, states the following:

In this Act, except where the context otherwise requires –

“planning authority” means a local authority,

Section 5(1) of the aforementioned Act, states the following:

If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing

from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Section 5(3)(a) of the aforementioned Act, states the following:

Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Section 127(1) of the aforementioned Act states the following:

An appeal or referral shall –

(d) state in full the grounds of appeal or referral and the reasons, considerations and arguments on which they are based,

Section 3(1) of the aforementioned Act states the following:

In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 2(1) of the aforementioned Act states the following:

“alteration” includes –

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

That materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“land” includes any structure and any land covered with water (whether inland or coastal);

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land...

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

Section 4(1) of the aforementioned Act states the following:

The following shall be exempted developments for the purposes of this Act –

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure of neighbouring structures;

Section 57(1) of the aforementioned Act states the following:

Notwithstanding section 4(1)(a), (h), (i), (ia), (j), (k), or (l) and any regulations made under section 4(2), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of –

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

Assessment

1. The referrer has submitted a Conservation Impact Assessment (CIA) of the proposal. This assessment traces the evolution of the subject bank by means of a series of drawings that were made in the early 1980s, the early 1990s, and today. These drawings bear out the referrer's claim that the banking hall has been renovated and remodelled over the years. Consequently, the only remaining original features are the following:
 - Ceilings and cornices,
 - Windows and window linings/architraves and steel window opening devices, and
 - Ironmongery to entrance lobby doors.
2. The proposal comprises various items of removal, replacement, and installation. The planning authority considered that all these items would constitute development and that those denoted as (a) – (e) and (g) – (j) would be exempted development and those denoted as (k) – (r) would not be exempted development. The referrer contends that the latter items, too, should have been declared to be exempted development.
3. As discussed above, under the heading "The question", I consider that the effect of the referral is that all the aforementioned items are presented for review by the Board and so the question for consideration can be reformulated as follows:

Whether items (a) – (e) and (g) – (r), inclusive, delineated by the referrer as works to be undertaken to the banking hall, a protected structure, at the Terenure Branch of the Bank of Ireland, 1 Rathfarnham Road, Terenure, Dublin 6W, are development and whether they are exempted development.

(i) Development

4.1 Under Section 3(1) of the Planning and Development Act, 2000 – 2016, (hereafter referred to as the Act), “development” is defined as including “the carrying out of any works on, in, over or under land”. This definition is elucidated by further definitions that are set out in Section 2(1) of the Act. Thus, “works” includes “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...”, where “land” includes any structure and where “structure” means any building.

4.2 In the light of the foregoing definitions and in view of the referrer’s clarification that the proposed waiting room (denoted as item(r)) would comprise loose chairs and a table only, I consider that each of the items (a) – (e) and (g) – (q) constitute development.

(ii) Exempted development

5.1 Ordinarily, under Section 4(1)(h) of the Act “development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure” are exempted development. However, in the case of a protected structure, under Section 57 of the Act, such works are effectively de-exempted unless they would not materially affect the character of the structure or any element of it which contributes to its special interest.

5.2 The subject bank was the subject of a declaration (D0082/00), under Section 57 of the Act, which provides guidance as to works that would be considered to be exempted development and non-exempted development. The planning authority has referred to this declaration in its submissions and I will, likewise, refer to it in my assessment.

5.3 Items (a) – (e) and (g) – (q), therefore, need to be assessed as to whether they would as development be exempted development or not. I will discuss each of these items in turn below.

(a) Removal of low level interview screens.

These screens to the interview room are non-original fabric and so their removal would not materially affect the character of the structure.

(b) Removal of letter box enclosure.

This enclosure is shown in the early 1980s drawings and the today drawings. However, it is omitted from the early 1990s ones. The enclosure is one of a pair on the RHS and the LHS of the lobby (as the banking hall is entered). Their shapes reflect that of the lobby and they are centred on accompanying windows. I, thus, take the view that, even if they are not original, they may be copies of originals, and, as such, they contribute positively to the character of the banking hall. The removal of the one on the LHS would thus materially affect this character.

(c) Removal of customer service desk.

This desk is not shown in the early 1980s drawing. It is shown for the first time in the early 1990s one and so I consider that it is non-original fabric and so its removal would not materially affect the character of the structure.

(d) Removal of writing bench along RHS of banking hall.

This bench is not shown in either the early 1980s or the early 1990s drawings and so I consider that it is non-original fabric and so its removal would not materially affect the character of the structure.

(e) Removal and relocation of internal ATM.

This removal and relocation to an adjacent position is shown in the existing and proposed floor plans. Original fabric would not be involved and so this removal and relocation would not materially affect the character of the structure.

(g) Replacement of suspended ceiling tiles to cashiers area.

The replacement of non-original suspended ceiling tiles would not materially affect the character of the structure.

(h) Provision of new floor finishes.

The replacement of non-original floor finishes would not materially affect the character of the structure.

(i) Provision of new light fittings using existing routes.

D0082/00 cites the “Upgrading of services such as plumbing or electrical installations” as an example of exempted development. During my site visit, I observed that the existing light routes to the banking hall are suspended from the original ceiling and they have a significant affect upon the character of this hall. In the absence of evidence to the contrary, I assume that these routes have been authorised in the past for planning purposes. On this basis, I consider that

the provision of new light fittings within them would not materially affect the character.

(j) Redecoration of walls and ceilings to banking hall.

D0082/00 cites the “Painting and decoration of the interior” as an example of exempted development and so I consider that the redecoration would not materially affect the character of the structure.

(k) Removal and replacement of entrance lobby door reusing brass handles.

The referrer has stated that the lobby door is not original and that its original ironmongery (cf. (k) below) would be reused. The planning authority states that this door may be a copy of the original one and that, as no details of the replacement one have been provided, it is possible that it would materially affect the character of the structure.

(l) Provision of 2.2m high stud partitions and door screens to form interview rooms 1 and 2. (Selected height of partitions would ensure that existing ornate corniced ceiling is not interfered with or concealed).

The referrer draws attention to the demountable design of these partitions and screens and thus their temporary and reversible nature. They also draw attention to the fact that, at 2.2m in height, they would not extend to the ceiling. The planning authority refers to D0082/00, which cites “Changes to plan form that would affect the existing ground floor banking hall” as an example of non-exempted development.

The existing and proposed floor plans show that the footprint of the existing interview room, which would be replaced, would increase with the provision of the proposed two interview rooms. Thus a greater portion of the banking hall floor would be enclosed on the LHS than at present. I, therefore, consider that these partitions and screens would materially affect the character of the structure.

(m) Provision of timber glazed screen to form QRT support room.

I consider that the logic set out in my assessment of item (k) above is applicable to this screen, too, and so it would materially affect the character of the structure.

(n) Provision of new door to existing frames to lobby reusing existing ironmongery.

See (k) above.

(o) Provision of 2.2m high stud partitions to form phone/internet booths and welcome wall. (Selected height of partitions would ensure that existing ornate corniced ceiling is not interfered with or concealed).

I consider that the logic set out in my assessment of item (k) above is applicable to these partitions, too, and so they would materially affect the character of the structure.

(p) Provision of new full height stud partition to form new express banking wall incorporating 2 ATM's, statement printer and priority drop box.

The applicant has clarified that the installation of this partition would not entail the use of fixtures to the hidden original ceiling above. A comparison of the existing and proposed floor plans indicates that it would not encroach upon the banking hall to any greater extent than at present. I thus consider that the partition would not materially affect the character of the structure.

(q) Provision of new bulkhead ceiling over express banking area.

The referrer's CIA identifies the ceiling and cornices of the banking hall as being original fabric. Notwithstanding the submission of plans that show this new bulkhead ceiling, I am unclear as to its nature and extent. Thus, I am unable to establish what its relationship with the original ceiling and cornices would be. In these circumstances, I consider that the precautionary principle is applicable and so in the absence of greater detail the risk exists that the proposed bulkhead ceiling would materially affect the character of the structure.

Conclusion

In the light of my assessment, I conclude that all the items except the one denoted as (r) would constitute development under Section 3(1) of the Planning and Development Act, 2000 – 2016, the items denoted as (a), (c), (d), (e), (g), (h), (i), (j), and (p) would constitute exempted development under Sections 4(1)(h) and 57 of this Act, and the items denoted as (b), (k), (l), (m), (n), (o), and (q) would not constitute exempted development under these Sections, too.

Recommendation

Having regard to the above, I recommend that the Board should decide as follows:

Whether items (a) – (e) and (g) – (r), inclusive, delineated by the referrer as works to be undertaken to the banking hall, a protected structure, at the Terenure Branch of the Bank of Ireland, 1 Rathfarnham Road, Terenure, Dublin 6W, are development and whether they are exempted development.

In considering this referral, the Board has had regard particularly to:

- (a) Sections 2, 3, 4, 5, 57, and 127 of the Planning and Development Act, 2000 – 2016,
- (b) The following submissions:
 - (i) The referrer’s submission,
 - (ii) The planning authority’s response, and
 - (iii) The referrer’s response to this response, and
- (c) The report of the inspector.

AND WHEREAS An Bord Pleanála has concluded the following:

That items (a) – (e) and (g) – (q) are development under Section 3(1) of the Planning and Development Act, 2000 – 2016.

That item (r) is not development under Section 3(1) of the Planning and Development Act, 2000 – 2016.

That items (a), (c), (d), (e), (g), (h), (i), (j), and (p) constitute exempted development under Sections 4(1)(h) and 57 of the Planning and Development Act, 2000 – 2016.

That items (b), (k), (l), (m), (n), (o), and (q) do not constitute exempted development under Sections 4(1)(h) and 57 of the Planning and Development Act, 2000 – 2016.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5(4) of the Planning and Development Act, 2000 – 2016, hereby declares that items (a) – (e) and (g) – (q) are development and that item (r) is not development under Section 3(1) of the Planning and Development Act, 2000 – 2016, and that items (a), (c), (d), (e), (g), (h), (i), (j), and (p) are exempted development and that items (b), (k), (l), (m), (n), (o), and (q) are not exempted development under Sections 4(1)(h) and 57 of the Planning and Development Act, 2000 – 2016, all items being those denoted by the referrer in their proposal for work to the banking hall at the Ternure Branch of the Bank of Ireland (a protected structure), 1 Rathfarnham Road, Terenure, Dublin 6W.

Hugh D. Morrison
Inspector
19th July 2016