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ARCHITECTURE
INTERIOR DESIGN
PLANNING
PROJECT MANAGEMENT
URBANISM

AN BORD PLEANÁLA
LDG- 014581-19
ABP- _____
28 MAR 2019
Fee: € 220 Type: Choice
Time: _____ By: Reg Post

27th March 2018

Attention of:

An Bord Pleanála,
64 Marlborough Street,
Dublin 1

**RE: Appeal re.Section 5 Declaration (R496/18) Student Housing Scheme at 9/10
Copley St. Cork**

Dear Sir/Madam,

On behalf of our clients Hatch Copley Ltd. we wish to refer to the Bord the Local Authority declaration that the works submitted under Section 5 Declaration Ref R496/18 **is deemed development and is not exempted development.**

We enclose the following in support of this appeal;

1. Section 5 application letter as submitted to local Authority
2. Documents and drawings submitted with Section 5 application;
 - Ordnance Survey Map (identifying site location)
 - Site Layout Map
 - Permitted Courtyard Elevations granted under 16/37131 compared against As Constructed Courtyard Elevations
 - Permitted Fourth floor plan granted under 16/37131 compared against as Constructed Fourth floor Plan
 - Full set of as constructed floor plans
3. Correspondence from Cork City Council:
 - Letter requesting Additional Information dated 04/03/2019
 - Letter noting Local Authority decision of 04/03/2019
4. Appropriate Fee €220 .Referral R1 "refer to An Bord Pleanála a declaration made by a planning authority on a question that was put to the planning authority".
5. This report setting out our reasons for this appeal.





Introduction

On behalf of our clients, Hatch Copley Ltd. a Section 5 application was submitted on 21st December 2018. Additional Information was requested by the local Authority on the 28th January 2019 and was submitted on the 29th January 2019.

A declaration was issued by the local authority on the 4th March 2019. They deemed that the works described in the application **is development and is not exempted development**. We wish to refer that declaration under Section 5 (3) (a). Full copies of the local authorities' correspondence and our original submitted application letter and drawings are included with this application.

Overview

The works relate to the Copley St. Student Housing Complex. The Building was originally constructed in 2005 as an Office Building on foot of full grant of permissions namely:

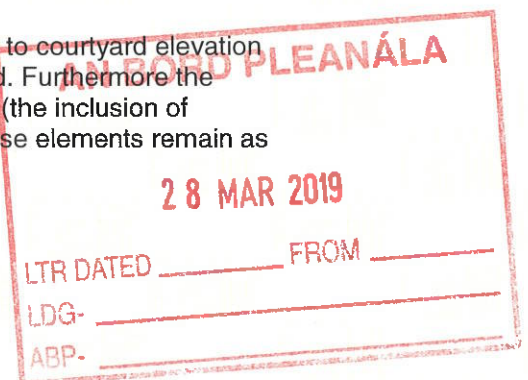
1. Reg No. 02/25985
"Demolish Building, Erect New Office Building & 38 No. Apts With Ground Floor Commercial Space & Basement Car Park On Site"
2. Reg. No. 04/29135
Variations And Alterations To Permitted Mixed Use Development At No. 10 Copley Street Bounded By Cotter Street And Stable Lane For Which Previous Planning Permission 02/25985 & 02/26441 Were Granted
3. Reg No. 07/32155
Change Of Use Of First, Second And North Section Of Third Floor Of Existing Office Development Permitted Under Applications No. T.p. 02/25985 And T.p. 02/26441 To An Educational Facility For The School of Architecture

The building had been occupied by the School of Architecture until 2017. Planning Permission was then granted in 2017 for the conversion of a former retail unit (block A) and the large office building (block B) into Student apartments;

4. Reg No: 16/37131.
Change Of Use Of The Ground, First, Second And Third Floors Of 'Block A' From Education (Offices, Studios, Lecture Rooms And Exhibition Space) To Student Accommodation (33 No. Accommodation Units)

Our clients purchased the building with this granted of permission and commenced with the above development (16/37131) and works are nearing completion on site (only certain internal finishes works and fitout are now being completed).

As works progressed, it was decided that certain permitted changes to courtyard elevation windows were not necessary and the existing windows were retained. Furthermore the proposed internal revisions to the fourth floor plan were not required (the inclusion of additional bedrooms, and the provision of a new lift). Therefore, these elements remain as permitted in the parent permission and built in 2005.



The full list of works are now complete as detailed below;

Block A;

- Retention of the existing internal floor plan at 4th floor level (no change to this floor layout previously permitted under 04/29135)
- Retaining a number of original windows on the internal Courtyard Elevations and the blockwork wall to the edge of the landscape deck (Not visible from the Public road, previously permitted under 04/29135).

All other works to the building have been constructed in full compliance with the planning permission. A Section 5 declaration was sought in order to regularize the permissions on site from a planning perspective. Therefore the specific question for which a declaration was sought was :

Are the retention of parts the original elevations & floor plan into the overall design (with minor modifications to same) considered exempted development under the Planning Act and are in substantial accordance with the Planning Permission granted under Planning Reg. Ref No. 16/37131

Planning Authorities Decision:

A declaration was issued by the local authority on the 4th March 2019. They deemed that the works described in the application **is development and is not exempted development**. Five reasons were given for this decision, which are listed below in bold and we have prepared our response to same, which forms the grounds for this appeal;

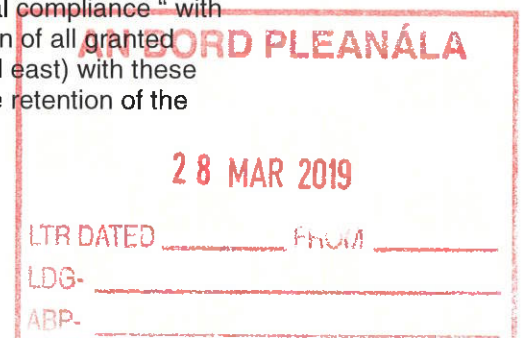
1). "The non-implementation of planning permission T.P. 16/37131 in full as required under condition 1 of that permission."

Condition No. 1. States:

The development shall be carried out in accordance with the plans and particulars submitted to the planning authority on 28/10/2016, as amended by the revised details submitted by way of additional information on 26/5/2017, except where otherwise altered or amended by conditions contained in this Schedule

This condition simply requires that any development carried out on foot of T.P. 16/37131 shall be in accordance with the specified plans and particulars. It does not require that the permission be completed in full and it does not preclude the retention of elements of a previous permission or the carrying out of further requested development under Section 4(a) (a) of the Planning Act.

It is not considered reasonable to conclude that the proposed retention of certain minor original elements of the parent permission would substantially contravene condition no 1 of PI Ref 16/37131. This development has been completed in "substantial compliance" with this permission including the full change of use , the full implementation of all granted elevations to the three public roads adjoining the site (north, south and east) with these minor works relating to three internal courtyard elevations only and the retention of the internal layout plan to the 4th floor.



2). "Restriction on exemption outlined in Article 9, (1), a (i) of Part 2 of the planning and Development Regulations 2001 (as amended)"

Article 9 (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

Again, as above, It is not considered reasonable to conclude that the proposed retention of certain minor original elements of the parent permission would substantially contravene condition no 1 of PI Ref 16/37131. In any case Article 9 only applies to exemptions under Article 6 of the Planning Regulations and does not apply to exemptions under Section 4 (i) (h) of the Planning Act.

3). "The alteration in size of windows and in the materials of the balcony area"

Windows

The number of windows have been retained to the internal north & south courtyard elevations, they just differ slightly in size to that granted, as some of them were retained (please see enclosed drawings).

On the west elevation there are 3 additional windows shown than that permitted under 16/37131, as these were not removed blocked up.

Section 4 of the Planning and Development Act, 2000 (as amended) sets out certain types of developments which are deemed to be exempted development. These include in section 4(1)(h);

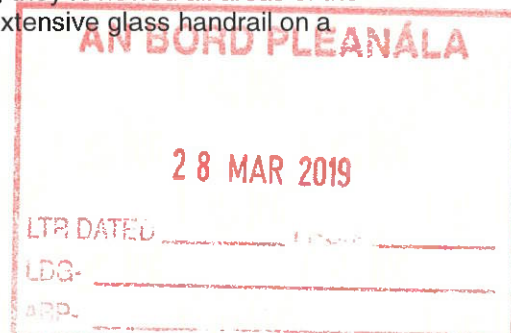
'development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent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

The alterations do not render the appearance of the structure inconsistent with the character of the structure or of neighbouring structures. The windows retained have full planning permission under the parent planning permission

Balcony Area

The 16/37131 permission allowed for the demolition of the existing 1.1m block-wall to the edge of the first floor communal terrace (referred to as a balcony area by the Planning Dept.) and replacement with a new 1.1m high glass guarding. This was purely for aesthetic reasons. The existing 1.1m high block -wall guarding has been retained.

Once our applicants had purchased the building with this planning permission and as experts in their field on student apartment management, they reviewed all areas of the building from a safety perspective. The inclusion of an extensive glass handrail on a



communal terrace for students was deemed dangerous. Therefore the 1.1m high blockwork wall was retained as permitted under 04/29135.

It does not impact on the resident's amenity or enjoyment of the terrace area. It cannot be seen from the public road as all works in this application are located to an internal courtyard elevation, visible only to residents of the building.

Again it is our opinion that these works do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

As noted in the previous section, Article 9 of the Regulations does not apply where exemption is claimed under section 4 (i) (h) of the Planning Act.

4). "Alterations to the ground floor layout"

There are no alterations to the ground floor layout .

5). "Variation No.5 (student Accommodation) of the Cork City Development Plan 2015-2021 in relation to provision of private amenity space"

The provision of private amenity space (As granted under 04/29135) has not been impacted by any of these works which relate to minor changes to elevations. The private amenity space provided within the development is fully in compliance with that grant of permission.

The Planning Authority have no authority in applying a more recent variation to the Development plan to an already granted planning permission, where private amenity space is in full compliance with that grant of permission

Furthermore a variation to a Development Plan does not affect a developers entitlement to carry out exempted development under the Planning Act or Regulations

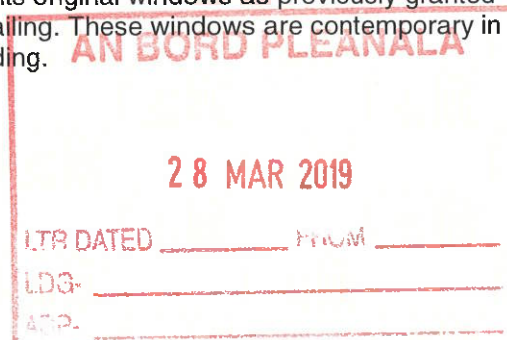
Conclusion

Section 4 of the Planning and Development Act, 2000 (as amended) sets out certain types of developments which are deemed to be exempted development . These include in section 4(1)(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 or of neighbouring structures'.

The key point here is therefore, whether the proposed works to the internal elevations would materially affect the external appearance of the Building. As these elevations cannot be seen from any neighboring structure or public road the "*neighbouring structures*" does not apply in our opinion.

The building simply retains a number of its original windows as previously granted permission, along with a solid balcony railing. These windows are contemporary in nature and harmonize well with the overall building.





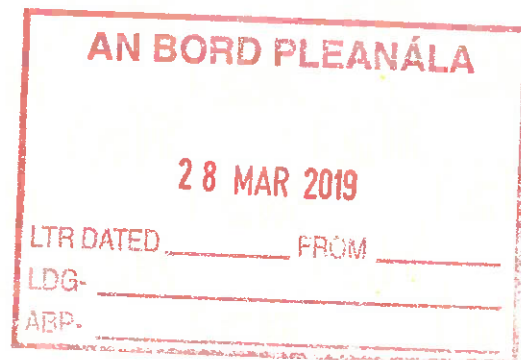
This exemption is not restricted by Article 9 of the Planning Regulations.

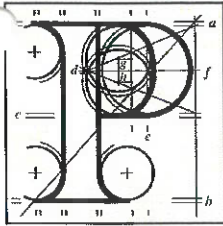
We therefore put forward that these works fall within the provision of section 4(h) and therefore are exempted development

Yours Sincerely,

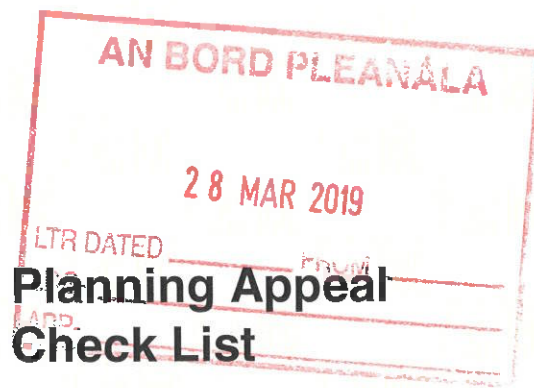
A handwritten signature in black ink, appearing to read "Paul Mulligan".

Paul Mulligan MRAI
Associate Director
REDDY ARCHITECTURE + URBANISM Cork





An
Bord
Pleanála



(Please read notes overleaf before completing)

1. The appeal must be in writing (e.g. not made by electronic means).

2. State the

name of the appellant
(not care of agent)

Hatch Copley Ltd.

address of the
appellant
(not care of agent)

8-10 Rock Hill Blackrock Co. Dublin

3. If an agent is involved, state the

name of the agent

Paul Mulligan MRIAI

address of the agent

Reddy Architecture + Urbanism
Douglas Business Centre, Carrigaline Road
Douglas, Cork T12 P088
T: + 353 21 4362922

28 MAR 2019

4. State the Subject Matter of the Appeal*

LTR DATED _____ FROM _____

Brief description of the development

LDG- _____

ABP- _____

Appeal re. Section 5 Declaration (R496/18) Student Housing Scheme.

Location of the development

9/10 Copley St. Cork

Name of planning authority

Cork City Council

Planning authority register reference number

16/37131

* Alternatively, enclose a copy of the decision of the planning authority as the statement of the Subject Matter of the Appeal.

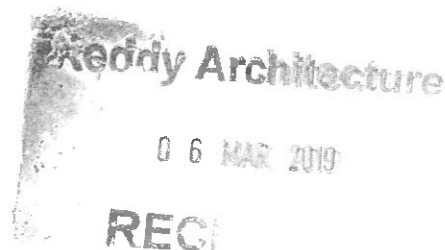
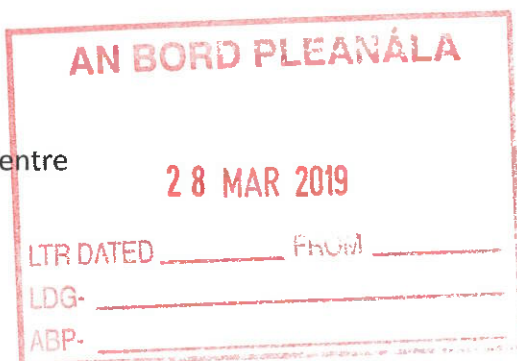
5. Attach, in full, the grounds of appeal and the reasons, considerations and arguments on which they are based.
6. Attach the acknowledgement by the planning authority of receipt of your submission or observations to that authority in respect of the planning application, the subject of this appeal. (Not applicable where the appellant is the applicant).
7. Enclose / Pay the correct fee for the appeal and, if requesting an oral hearing of same, the fee for that request see "[Guide to Fees Payable](#)" under heading of Making an Appeal on Home Page of this website for current fees.
8. Ensure that the appeal is received by the Board in the **correct manner and in time.**



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Eoin McCarthy
Reddy A+U
Douglas Business Centre
Carrigaline Road
Douglas
Cork



04/03/2019

RE: Section 5 R496/18 9/10 Copley Street

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above named property.

Having regard to:

- The non implementation of planning permission T.P. 16/37131 in full as required under Condition 1 of that permission;
- Restriction on exemption outlined in Article 9,(1),a,(i) of Part 2 of the Planning and Development Regulations 2001 (as amended);
- The alteration in size of windows and in the materials of the balcony area;
- Alterations to the ground floor layout; and
- Variation No. 5 (Student Accommodation) of the Cork City Development Plan 2015-2021 in relation to provision of private amenity space;

the works described in the application form as '*retention of parts of the original elevations and floor plan into the overall design (with minor modifications to same)*' **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**

Yours Faithfully,

Paul Hartnett
Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council



We are Cork.



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Paul Mulligan
Reddy A+U
Douglas Business Centre
Carrigaline Road
Douglas
Cork



Reddy Architecture

31 JAN 2019

RECEIVED

28/01/2018

RE: Section 5 R496/18 9/10 Copley Street

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above named property.

Further Information is requested as follows:

1. Please submit a full set of 'as constructed' drawings including floor plans in order that the Planning Authority can establish how all of the elevational changes relate to the constructed internal floor plans. Please note that the 'as built' fourth floor elevation (south internal courtyard) does not appear to match the as constructed fourth floor layout in terms of windows.
2. Please clarify whether the non provision of the glass roof garden balustrade proposed under the response to the Further Information request (Item 3) of T.P 16/37131 will still allow for the use of the roof area as an amenity space (in terms of building regulation requirements) and whether it is intended to provide a roof garden in this location as per the Landscape Plan submitted under T.P. 16/37131. Please clarify whether the existing parapet meets health and safety/building regulations in terms of the operational use of the space as a roof garden.

Yours Faithfully,

Paul Hartnett
Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

paul_hartnett@corkcity.ie



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21st December 2018

Attention of:

Strategic Planning & Economic Development Directorate,
Cork City Council,
Angelsea Street,
Cork.

**RE: Application for a Section 5 Declaration Copley St. Student Housing Scheme,
9/10 Copley St. Cork**

Dear Sir/Madam,

On behalf of our clients Hatch Copley Ltd. we wish to apply for a Section 5 Declaration.

The works relate to the Copley St. Student Housing Complex. Planning Permission was granted for the conversion of a former retail unit (block A) and a large office building (block B) into Student apartments. (16/37131). These works are nearing completion on site in the new year.

As works progressed it was decided that certain permitted changes to elevations (listed below) were not required, and that certain existing elevations could be retained with minor modifications. These works are now complete as detailed below;

Block A;

- Retention of the existing internal floor plan at 4th floor level (no change to this floor)
- Retaining the Courtyard Elevations with minor window alterations (Not visible from the Public road)

All other works to the building have been constructed in full compliance with the planning permission.

Therefore the specific question for which a declaration is sought is:

Are the retention of parts the original elevations & floor plan into the overall design (with minor modifications to same) considered exempted development under the Planning Act and are in substantial accordance with the Planning Permission granted under Planning Reg. Ref No. 16/37131

We enclose the following In support of this application;

1. Completed Section 5 Declaration Form
2. Ordnance Survey Map (identifying site location)
3. Site Layout Map



ISO 9001:2008 Certified

● **Offices in:**
London, Dublin, Cork, Sligo,
Kilkenny and Belfast.

Associated Offices in:
Abu Dhabi, Bucharest,
Warsaw and Miami.

Reddy O'Riordan Staehli Ltd.
Registered in Ireland, Reg. No. 380628.
Registered Office: Schoolhouse Studio,
Carrigaline Road, Douglas, Cork, Ireland.

Directors:
Anthony Reddy, Chairman
Aidan Healy, Sean Keams, Directors

Associates:
Richard Booth, Pádraig Hyde, John Leane,
Paul Mulligan, Tom Phelan

Group Directors:
Kosta Kapetangiannis, Rob Keane, Ronan Kelleher,
Mark Kennedy, Terence McCaw.

4. Permitted Elevations granted under 16/37131 compared against As Constructed Elevations for;

Block A Courtyard Elevations
Block A fourth Floor plan

5. €80.00 Fee

Yours Sincerely,



Paul Mulligan MRIAI
Associate Director
REDDY ARCHITECTURE + URBANISM Cork