

The Secretary

An Bord Pleanála

64 Marlborough Street

Dublin

29th June 2022

AN BORD PLEANÁLA	
L.D.G. 054826-22	ABP- o.k.
29 JUN 2022	
Fee: € 220	Type: <i>change</i>
Time: 11.57	By: <i>Lorald</i>

RE: REFERRAL OF A DECLARATION MADE BY DUBLIN CITY COUNCIL (SECTION 5(3)(A) OF THE PLANNING AND DEVELOPMENT ACT, 2000, AS AMENDED)

A Chara,

We, Coakley O'Neill Town Planning Ltd, NSC Campus, Mahon, Cork, have been instructed by our clients Circle K Ireland Energy Group Ltd, of Circle K House, Beech Hill, Clonskeagh, Dublin 4, to refer a declaration made by Dublin City Council, **Reference 0140/22**, on the 2nd June 2022 to An Bord Pleanála under section 5(3)(a) of the Planning and Development Act, 2000, as amended, in relation to, at No.49 Grafton Street, Dublin 2;

Whether planning permission is required for works which comprise the rebranding of external shopfront signage to the existing retail unit.

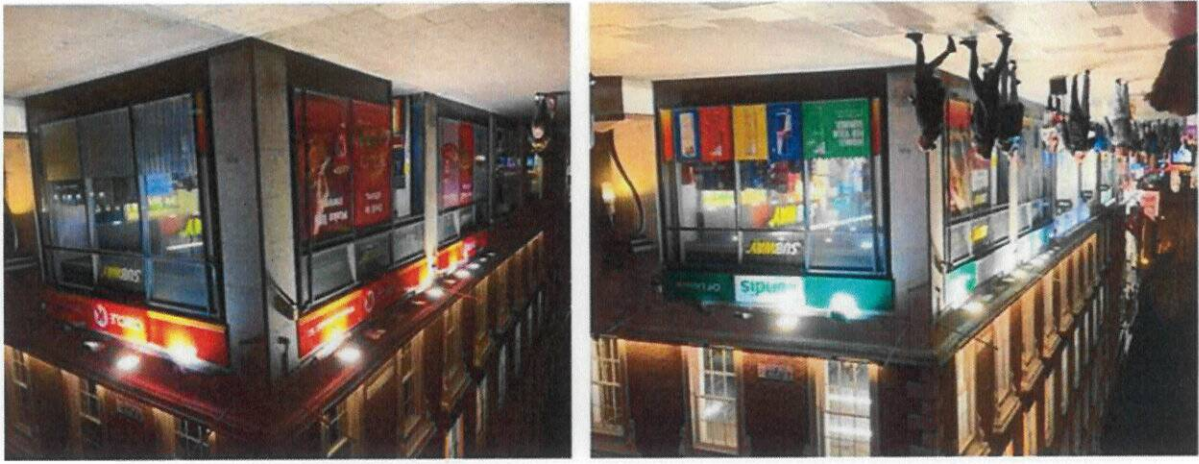
Dublin City Council in its declaration dated 2nd June 2022, concluded that the proposal constitutes development which is not exempted development.

The last date for receipt of this referral is 29th June 2022 and the appropriate fee of €220 is enclosed.

Site Location and Description

The site is located on the southern end of Grafton Street to which it fronts onto in Dublin City Centre. It forms part of the city centre core retail offering of Dublin. The immediate area is predominantly occupied by a range of retail and commercial units such as clothing stores, cafes, fast food chains, bars and restaurants. To the immediate south is St. Stephen's Green Shopping Centre and St. Stephen's Public Park.

Figure 2 – Extent of changes to external signage at Westmoreland Street



AFTER

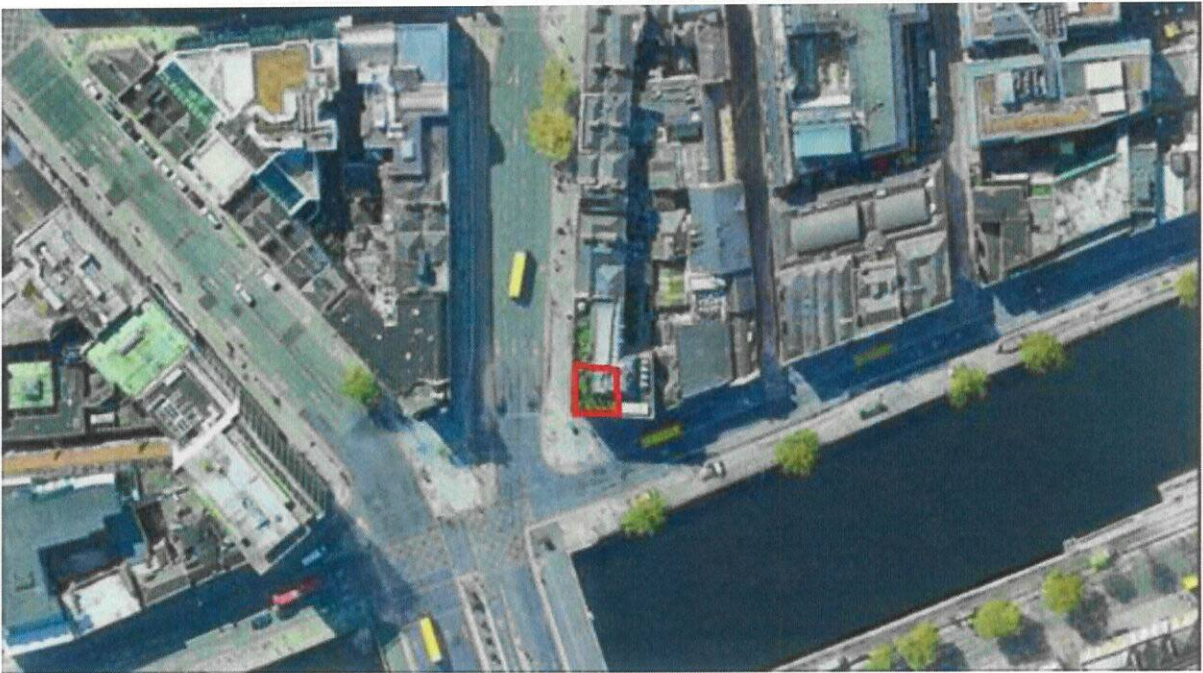
BEFORE

See below highlighting extent of changes to signage at the retail unit on Westmoreland Street.

New replacement signage was erected at the store on foot of a change of operation to our clients. It comprises signage at the same location and of the same type, size, materials, and illumination as was already in place at the store. In terms of the texture, profile and individuality of the shop fronts, no material change has arisen. As such, the replacement signage is consistent with the established and permitted traditional character and style of the shop front.

Works Subject to Section 5 Declaration

Figure 1: Site location in context of surrounding area



Figures 3 and 4 below show the change in signage on foot of this change in ownership to the retail unit.



Figure 3: Previous signage

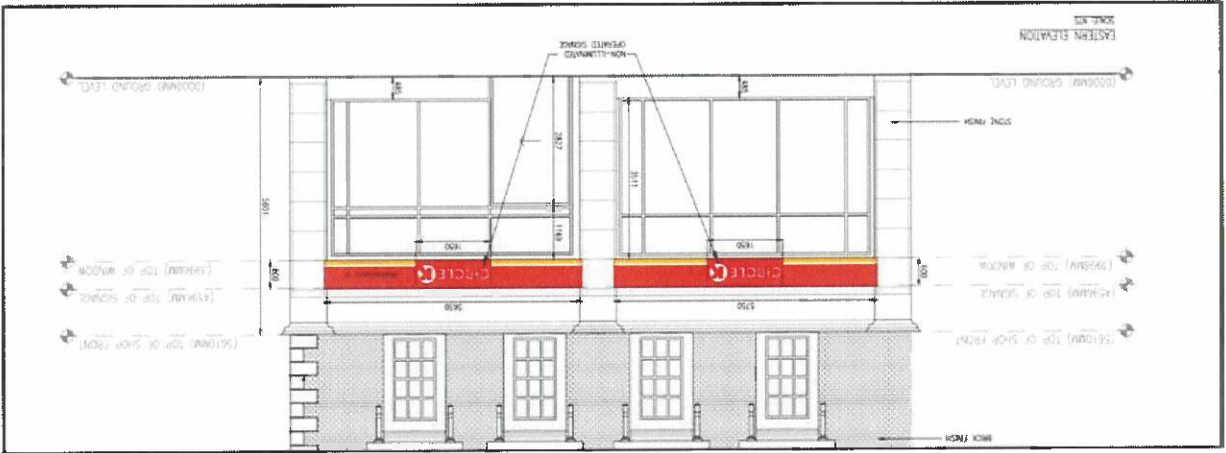


Figure 4: Existing replacement signage on foot of change of ownership to our clients

Declaration of Dublin City Council

Dublin City Council in its declaration dated 2nd June 2022 (Reference 0139/22, E0053/22) concluded that the proposed replacement of existing signage constitutes development which is not exempted development on the following grounds:

Given that the site is located within the O'Connell Street Architectural Conservation Area and the Scheme of Special Planning Control, which states that all alterations to signage and advertisements requires planning permission, the proposed works are not exempt development and require planning permission. Section 4(1)(h) of the Planning and Development Act is not considered relevant in this instance. It is also evident from the material submitted that the replacement signage is not consistent with any permitted or established traditional character and style at the premises.

This application for a section 5 Declaration has been assessed in accordance with the Planning and Development Act 2000 (as amended) and the Regulations made thereunder. Given that works were undertaken to signage on this premises which the Scheme of Special Control for O'Connell Street states requires planning permission, the proposed development cannot be considered exempt development. The works undertaken are considered to be visually incongruous and have a detrimental impact on the O'Connell Street Architectural Conservation Area and the Area of Special Planning Control.

This declaration is attached at Appendix 1 to this referral.

Planning Legislation

The control of development is regulated by the Planning and Development Act 2000, as amended, and the Planning and Development Regulations 2001, as amended, which set out whether, and in which instances, certain types of development require planning permission. They also set out the circumstances under which certain types of development are considered exempt from the requirement to obtain planning permission.

The following extracts from the Act are considered relevant:

Section 2 of the Act "structure" means any building, structure, excavation, or other thing constructed or made on, in or under land, or any part of a structure so defined, and – (a) where the context so admits, includes the land on, in or under which the structure is situated...

Section 2 defines "use", in relation to land, does not include the use of land by the carrying out of any works thereon;

Section 2 defines "advertisement", which means any word, letter, model, balloon, inflatable structure, kite, poster, notice, device or representation employed for advertisement, announcement or direction.

Section 2 defines "advertisement structure" which means any structure which is a hoarding, scaffold, framework, pole, standard, device or sign (whether illuminated or not) and which is used or intended for use for exhibiting advertisements or any attachment to a building or structure used for advertising purposes.

Section 2 defines "exhibit", in relation to an advertisement, includes affix, inscribe, print, paint, illuminate and otherwise delineate.

Section 3(1) of the Act states the following: "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 4, Exempted Development includes:

Section 4(1) 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 or of neighbouring structures.

Section 57(1) states that notwithstanding Sections 4(1)(h) and any regulations made under Section 4(2), the carrying out of works to a protected structure, or 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.

In addition to the specified exemptions in the Act, Section 4(2) of the Act provides that the Minister may make Regulations to provide for any class of development being exempted development.

In this regard, the Planning and Development Regulations 2001, as amended, set out the main criteria when deciding whether development is exempt from planning permission or not. Article 6 Part 2 of the Regulations provides the following definitions:

Conditions & Limitations	Description of Development
<p>1. The total area of such advertisements exhibited on or attached or affixed to the front of any building on the premises shall not exceed an area equal to 0.3 square metres for every metre length of such front, less the total area of any such advertisements exhibited on the premises but not exhibited on or attached or affixed to a building, and in any event shall not exceed 5 square metres.</p> <p>2. The total area of such advertisements exhibited on or attached or affixed to any face of a building on the premises other than the front thereof shall not exceed 1.2 square metres and the total area of any such advertisements on such face which are illuminated shall not exceed 0.3 square metres.</p> <p>3. The total area of such advertisement which are not exhibited on or attached or affixed to a building on the premises shall not exceed 3 square metres, of which not more than 1.5 square metres shall consist of advertisements which are illuminated.</p> <p>4. (a) No part of any such advertisement which is not exhibited on or attached or affixed to a building on the premises, or of an advertisement structure on which it is exhibited, shall be more than 2.5 metres in height.</p>	<p>Class 1: Advertisements (other than those specified in classes 2, 3 or 5 of this Part of this Schedule) exhibited on business premises, wholly with reference to the business or other activity carried on or the goods or services provided on those premises.</p>

(a) Subject to article 9, development consisting of the use of a structure or other land for the exhibition of advertisements of a class specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that —

such development complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1, and

the structure or other land shall not be used for the exhibition of any advertisement other than an advertisement of a class which is specified in column 1 of the said Part 2 and which complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1.

(b) Subject to article 9, development consisting of the erection of any advertisement structure for the exhibition of an advertisement of any one of the classes specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that —

the area of such advertisement structure which is used for the exhibition of an advertisement does not exceed the area, if any, specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1,

the advertisement structure is not used for the exhibition of advertisements other than advertisements of the class to which the exemption relates,

further to section 57 of the Act, the advertisement structure is not erected on a protected structure, or a proposed protected structure save an advertisement structure referred to in Classes 5, 9 or 15 of column 1 of Part 2 of Schedule 2,

The following is also noted with respect to advertisements on the front of shops

Table 1: Exempted Development under the Regulations – Advertisements

<p>(b) No part of any such advertisement which is exhibited on or attached or affixed to a building on the premises shall be more than 4 metres in height above ground level</p> <p>5. Where any such advertisement projects more than 5 centimetres over any public road, the sign or other advertisement structure on which it is exhibited shall not be less than 2 metres above the level of such road and shall not project more than 1 metre over such road.</p>	<p>Class 2: Illuminated advertisements exhibited as part of any shop or other window display on business premises and other advertisements affixed to the inside of the glass surface of a window of a business premises or otherwise exhibited through a window of such premises.</p>
	<p>Class 3: Advertisements displayed within a business premises, and which are not visible from outside the premises.</p>

Article 9 of the Regulations sets out restrictions on exemption and includes the following:

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,

- (v) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.
- (b) in an area to which a special amenity area order relates, if such development would be development—
 - (ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or

- (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule,
- or
- (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,

Article 10(2)(a) of the Regulations states that a use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.

Under Article 151 of the Regulations, the following is set out

- (1) Where a planning authority receives a request for a declaration under section 5 of the Act relating to the provision of, or modifications to, an establishment, and, in the opinion of the authority, the development could have significant repercussions on major accident hazards, the authority shall send notice to the Health and Safety Authority

(2) A notice sent by a planning authority under sub-article (1) shall—

- (a) issue as soon as may be following receipt of the request for a declaration,
- (b) include a copy of the relevant request for a declaration,

(c) request technical advice on the effects of the proposed development on the risk or consequences of a major accident.

Planning Policy

The Dublin City Development Plan, 2016-2022 (DCDP) recognises the significant contribution of O'Connell Street and on towards Grafton Street across O'Connell Bridge as an essential component of the city economy. In this respect, O'Connell Street and Grafton Street form part of the City Centre Retail Core as Principal Shopping Streets (Volume 1 Fig:8 DCDP) of the City Centre.

The subject site is zoned as Z5 – City Centre, with the primary purpose of this use zone being to sustain life within the centre of the city through intensive mixed-use development

Z5 – City Centre: To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen, and protect its civic design character and dignity.

The current use of the site as a Circle K convenience shop is consistent with the zoning objective for the site and is acceptable in terms of the broad level objectives to support small to medium sized retail in this city centre location. The subject site is not listed as a Protected Structure. The surrounding block of buildings in the immediate vicinity have a protected status (No. 14, 15, 16, 22, 26 and 27 Westmoreland Street, RPS No. 8539 – 8544). The site forms part of the O'Connell Street Architectural Conservation Area and Area of Special Planning Control. Architectural Conservation Areas and Conservation Areas have been designated in recognition of their special interest or unique historic and architectural character and important contribution to the heritage of the city.

Section 11.1.5.4 of the Plan states it is an objective to:

Preserve the character of a place, area, group of structures or townscape, taking account of building lines and heights, that;
a) is of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest or value, or
b) contributes to the appreciation of protected structures, if the planning authority is of the opinion that its inclusion is necessary for the preservation of the character of the place, area, group of structures or townscape concerned and any such place, area, group of structures or townscape shall be known as and is in this Act referred to as an "architectural conservation area."

In relation to signage, the Development Plan states in Policy RD15 that it is a policy of Dublin City Council to:

...require a high quality of design and finish for new and replacement shopfronts, signage, and advertising. Dublin City Council will actively promote the principles of good shopfront design as set out in Dublin City Council's Shopfront Design Guidelines. (www.dublincity.ie) (see also 16.24.2)

Furthermore, Section 16.4.2 in relation to retail shopfronts highlights the importance of ensuring that shopfronts are "contemporary and well designed." It also states that new shopfronts or alterations to existing shopfronts should:

1. Relate satisfactorily to the design, proportions, materials, and detail of the upper parts of the building
2. Complement their context and the quality and character of adjoining shopfronts, especially where these form part of a consistent group of traditional shopfronts
3. Wherever possible, be accessible to all and provide a level threshold to the entrance
4. Re-instate missing architectural detail, where appropriate
5. Not harm or obscure original architectural detail such as corbels, console brackets, fascias, pilasters and stallisers, or involve the removal of existing shopfronts of historic or architectural interest
6. Not involve the installation of solid or perforated external shutters
7. Not be entirely or largely openable
8. Be of good quality contemporary design, where appropriate

Section 16.24.3 in the Plan specifically addresses signs of shopfronts and other business premises, and the following points are of relevance:

- The signage relating to any commercial ground floor use should be contained within the fascia board of the shopfront. The lettering employed should be either on the fascia or consist of individually mounted solid letters mounted on the fascia. The size of the lettering used should be in proportion to the depth of the fascia board
- Shopfronts sponsored by commercial brands will generally not be permitted
- Proposals for shopfront signage shall have regard to the contents of the Retail Design Manual, 2012, Dublin City Council's Shopfront Design Guide, 2001 and the O'Connell Street Area Shopfront Design Guidelines, 2003, where appropriate

In addition, the Scheme of Special Planning Control Grafton Street and Environs 2019 outlines the following with respect to overhead signage:

Part 3 – Shopfronts & Advertisement Structures The Scheme de-exempts all signage and advertisements both external and internal within the designated Grafton Street & Environs Area. This section recognises the Outdoor Advertising Strategy as contained in Appendix 19 of the Dublin City Development Plan 2016-2022 and sets out development management measures for shopfront design and signage.

Notwithstanding Part 2 Exempted Development – Advertisements {Article 6} of the Planning and Development Regulations, 2001 (as amended), within the designated Grafton Street and Environs ACA, all signage and advertisements both external and internal requires planning permission

- **Application Reg. Ref. 1908/97:** Permission was granted by An Bord Pleanála (PL 29S.104715) on 13th May 1998 for alterations to ground floor shop fronts, conversion of two separate ground floor shops into single shop unit by removing division wall. Alterations of basement to provide ancillary facilities for new shop unit. This followed a granting of permission by Dublin City Council.
- **Application Reg. Ref. 4052/17:** Permission was granted on the 4th of December 2017 for the replacement of 3 no. glazed shopfronts at Units 1, 2 and 5 Ballast House, 18-21, Westmoreland Street, Aston Quay, Dublin 2.

The following planning history applies to the block of buildings inclusive of 20-21 Westmoreland Street.

Planning History

It is noted that there is no mention or guidance on the replacement of previously existing signage with updated signage as consequence of a change of ownership of a commercial unit.

- Lettering or logos shall not be affixed directly to the glazing of any shop or business windows, other than etched lettering. All sign displays inside the shop should be kept back a minimum distance of 500mm from the glazing. Lettering or logos shall not obstruct the window display and shall not exceed one quarter of the area of the window through which the advertisements are exhibited.
- The signage relating to any commercial ground floor use shall be contained within the fascia board of the shopfront. The lettering employed shall either be painted on the fascia, or consist of individually mounted solid letters on the fascia board. The size of the lettering used should be in proportion to the depth of the fascia board and in all cases shall not exceed 300mm in height.
- Signage shall form an integral part of the overall design for the shopfront and shall be restricted to the fascia. In general only the name and street number of the shop should be on the fascia panel.

Further guidance is provided below in relation to shop front signage:

The site was also part of permissions granted for combined lands including No. 17 Westmoreland Street. This was granted under Application Register Reference 2146/16 and subsequently amended under Applications 4207/16 and 3995/17.

No. 8: A window display shall be maintained at all times, and the glazing to the shopfront shall be kept free of all stickers, posters, and advertisements. **Reason:** In the interests of visual amenity.

No. 7: Notwithstanding the provisions of the Planning & Development Regulations 2001 (As Amended), no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage, or attached to the glazing without the prior grant of planning permission. **Reason:** In the interests of visual amenity.

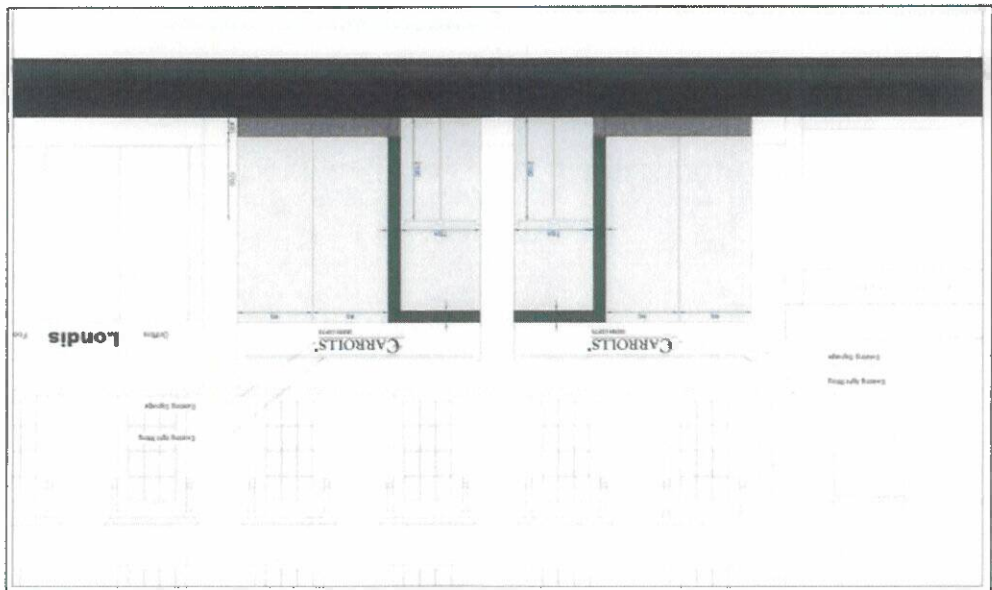
No. 1: Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made thereunder are concerned, the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto. For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices. **Reason:** To comply with permission regulations.

Permission was granted subject to 9 no. conditions. The following conditions are of note:

Class 13: Developments not within the above classes: Elevation/facade changes, Demolition, Landscape/layout changes, Change of opening hours, Commercial vehicle entrance, Other minor alterations

It is notable that the application was based on a fee that included Class 13, which incorporates:

Figure 5 – Permitted site layout under Register Reference 4051/17



We would ask the Board to note that the applicant does not dispute the fact that the proposed works constitute development within the meaning of Section 3(1) of the Planning and Development Act, 2000, as amended.

What is at issue is the rationale put forward by Dublin City Council that these works constitute development which is not exempted development.

There are a range of exemptions set out under both the Planning Acts and the Regulations which exempt certain development from a requirement to obtain planning permission. This submission contends that the replacement sign benefits from exemption under S.4(i)(h) of the Planning Act.

Furthermore, it argues that Articles 6 and 9 (specifically 9 (1)(viii) of the Planning and Development Regulations, 2001, as amended, do not relate to, and do not affect, the exempted development provisions provided at Section 4 (1)(h) of the Planning and Development Act 2000 (as amended), under which this declaration for exemption is sought.

Finally, it puts forward the provisions of the **Scheme of Special Planning Control O'Connell Street and Environs 2016** does not de-exempt works carried out under s.41(h) of the Act. Rather, it de-exempts signage and advertising normally afforded exemption under Part 2 Exempted Development – Advertisements (Article 6) of the Planning & Development Regulations 2001 (as amended) or any regulations revoking or re-enacting these regulations

As already shown above, new replacement signage was erected at the store on foot of a change of ownership to our clients. It comprises signage at the same location and of the same type, size, materials, and illumination as was already in place and permitted at the store. In terms of the texture, profile and individuality of the shop fronts, no material change has arisen.

As such, the replacement signage is consistent with the established and permitted traditional character and style of the shop front.

Aside from the current enforcement action in relation to the signage the subject of this referral, there is of note that there is no open enforcement action against the site. All previous enforcement actions, from before our clients took up residence in the property, were resolved to the satisfaction of the City Council and are closed.

It is also of note that the building is not a Protected Structure and therefore Section 57 of the Act does not apply. The site is included within an Architectural Conservation Area, but this does not impact upon the exemption sought under this declaration. In any event, recent case law highlights that replacing existing advertising/signage can be seen to not materially alter the external appearance of a structure.

The definition of a structure in the Act is not limited to buildings but comprises any building, structure, excavation, or other thing constructed or made on, in or under land, or any part of a structure so defined. The signage in this

instance meets that definition and furthermore forms an integral part of the building's façade and contributes to its established and permitted commercial character at ground floor level.

The replacement signage is at the same location on the building and of the same type, size, materials, and illumination as was already in place at the store. In terms of the texture, profile and individuality of the shop fronts, no material change has arisen. Its colour and ornamental features are but it is considered not to the extent to render the appearance inconsistent with the character of the original building. As such, the replacement signage is consistent with the established and permitted traditional character and style of the shop front.

Dublin City Council's decision under **Section 5 Declaration 0131/16**, where an existing Topaz Service Station was rebranded with 'Re-Store' signage, supports the conclusion that the external works in this instance have the benefit of exemption. To quote directly:

Declaration of exemption for the refurbishment and redevelopment of Topaz Dublin Port Service Station. These works included a new Re-Store dell and serving counter, a new 'Rockets' serving area and, externally, the removal of existing signage and replacement with new Re-Store signage. Dublin City Council's assessment concluded:

It is considered that the itemised internal works can be considered to be exempted development as they fall within the scope of Section 4 (1) (h). Similarly the refurbishment and repainting of the external walls can be considered exempted development with reference to S4(1)(h). In relation to signage, the proposal cannot rely on the Exempted development classes for Advertisements as the proposed illuminated signs would exceed the area limits. However it is considered that in this particular case, the proposed signs would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of this purpose built structure or of any neighbouring structures and can therefore be considered to be in accordance with provisions of S 4(1)(g)

Furthermore, under **Referral 29N.RL.3126** whereas a question arose as to whether the creation of a loading bay with roller shutter to side of an industrial/warehouse premises at Chadwicks, Greencastle Parade, Malahide Road, Coolock, Dublin was or was not development or was or was not exempted development. The Board concluded that they were exempted development on the following basis:

a) *the said loading bay with roller shutter to the side of an industrial/warehouse premises is development, in accordance with the provisions of sections 2 and 3 of the Planning and Development Act, 2000, as amended, and*

b) *he said loading bay with roller shutter to the side of an industrial/warehouse premises does not alter the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures and is therefore, in accordance with the provisions of section 4 (1)(h) of the said Act;*

Additional precedence is evident under **Referral 35.RL.2850** concerning whether the renovation of the Woodstock Service Station, Woodstock Street, Athy, County Kildare was or was not development or was not exempted development. The renovation works included:

1. The removal of underground fuel storage tanks (20,000 litres) and the installation of two underground fuel storage tanks (30,000 litres);
2. The construction of a new drainage layout and services duct layout;
3. The erection of four number "Amber" signs and droplet logo signs on the stanchions of the canopy structure;
4. The erection of new side cladding and three number "Amber" signs and droplet logos on the canopy structure; and
5. The erection of new cladding and the new logo "Diesel", "Petrol", "Costcutter", "Hot food/Deli" and "Fresh Coffee" on the roadside double pole ID sign; at Woodstock Service Station, Woodstock Street, Athy, County Kildare, are or are not exempted development:

An Bord Pleanála concluded that:

- a. The removal of underground fuel storage tanks (20,000 litres) and the installation of two underground fuel storage tanks (30,000 litres) of limited scale, located underground, does not result in intensification of the site, does not raise new planning issues and comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000;
- b. The construction of a new drainage layout and services duct layout, on the basis of the evidence submitted, does not raise new planning issues and comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000;
- c. The erection of four number "Amber" signs and droplet logo signs on the stanchions of the canopy structure, which provide information about the relevant pump and which are smaller than the company logos previously permitted and generally comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000;
- d. The erection of new side cladding and three number "Amber" signs and droplet logos on the canopy structure, generally comes within the terms of the permitted development and the colour change of the canopy reflect the company colours in the same way that condition number 3 of TP/32/95 reflected the colour of the company for which the petrol filling station was applied for;
- e. The erection of new cladding and the new logo "Diesel", "Petrol", "Costcutter", "Hot food/Deli" and "Fresh Coffee" on the roadside double pole ID sign, are not out of character with the structure permitted and generally comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000

It is notable in that instance that Kildare County Council had considered the following works to be exempted development in accordance with Section 4(1) (h) of the Planning and Development Act 2000:

All renovations and alterations, both internally and externally of the shop structure including the alterations to the office and toilet layout, construction of a strong room, the installation of a new ceiling and thermal

insulation, the blocking of window openings and doorways, the construction of new doorways and new kitchen layout including the installation of an extractor fan system and the painting of the structure.

Therefore, taken together, both the Council's and Board's decisions considered all of the above works, both external and internal, exempt.

Taking the above into account, it is concluded that the works carried out here, comprising the replacement of the existing signage with like for like signage, benefit from the exemption available under s.4(1)(h) of the Act, being development consisting of the carrying out of works for the maintenance, improvement, or other alteration of the structure...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.

It is acknowledged that the Scheme of **Special Planning Control O'Connell Street and Environs 2016** de-exempts signage and advertising normally afforded exemption under the *Planning & Development Regulations 2001* (as amended).

This does not de-exempt works carried out under s.4(1)(h) of the Act, which are entirely separate exemptions and are not impacted by the provisions of the Planning Regulations, notable Articles 6 and 9 of same.

On this basis, it is submitted to the Planning Authority that the replacement of existing permitted signage with signage of a like for like nature and character is exempted development and does not require planning permission.

Conclusion

In conclusion, it is submitted that:

Having regard particularly to:

- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended.
- Articles 5, 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended.
- The location and planning history of the subject site.
- The nature and extent of permitted development on the subject site.

We submit that:

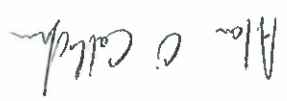
1. The works undertaken constitute development;
2. The works, comprising the replacement of an existing permitted sign can avail of exemption available under Section 4(1)(h) of the Act and can be considered exempted development based on the conclusion that they do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.
3. Permission for existing signage on the building is in place. Its replacement with signage of a similar nature is considered exempt.

On this basis, we conclude that the proposed development is development and is exempted development.

We would respectfully ask the Board to reach the same conclusion.

Please refer all correspondence in relation to this matter to Alan O'Callaghan, Coakley O'Neill Town Planning Ltd, NSC Campus, Mahon, Cork.

Kind regards,



Alan O'Callaghan
 Planning Consultant
 Coakley O'Neill Town Planning Ltd



Comhairle Cathrach
Bhaile Atha Cliath
Dublin City Council

An Roinn Pleanála & Forbairt Mhaoin, Baile Atha Cliath 8.
Cathrach, An Ché Adhmaid, Baile Atha Cliath 8.
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.
Planning & Property Development Department, Block 4, Floor 3,
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E: planning@dublincity.ie

08-Jun-2022

Alannah Hurley,
Coakley O' Neill Town Planning Ltd
NSC Campus
Mahon
Cork
T12 H7AA

Application Number	0140/22
Application Type	Section 5
Registration Date	06-May-2022
Decision Date	02-Jun-2022
Decision Order Number	P3401
Location	49, Grattan Street, Dublin 2
Proposal	EXP: Whether planning permission is required for works which comprise the rebranding of external shopfront signage to the existing retail unit.
Applicant Details	Circle K Ireland Energy Group Limited

If you have any queries regarding this Decision, please contact the email shown above

Note: Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by An Bord Pleanála within four weeks of the date of the declaration.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Act 2000 (as amended), Dublin City Council has by order dated 02-Jun-2022 decided to issue a Declaration that the proposed development is NOT EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Act 2000 (as amended) for the following reason:

Accordingly, it is considered that the works seeking retention are NOT considered exempted development when assessed in accordance with the Planning and Development Act 2000 (as amended) and the Regulations made thereunder.

Signed on behalf of Dublin City Council

Muirgove
For Administrative Officer

Accordingly, it is considered that the works seeking retention are NOT considered exempted development when assessed in accordance with the Planning and Development Act 2000 (as amended) and the Regulations made thereunder.

In pursuance of its functions under the Planning & Development Act 2000 (as amended), Dublin City Council has by order dated 02-Jun-2022 decided to issue a Declaration that the proposed development is NOT EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Act 2000 (as amended) for the following reason:

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

Note: Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by A Bord Pleanála within four weeks of the date of the issuing of the declaration.

If you have any queries regarding this Decision, please contact the email shown above

0140/22	Application Number
Section 5	Application Type
06-May-2022	Registration Date
02-Jun-2022	Decision Date
P3401	Decision Order Number
49, Grafton Street, Dublin 2	Location
EXP: Whether planning permission is required for works which comprise the rebranding of external shopfront signage to the existing retail unit.	Proposal
Circle K Ireland Energy Group Limited	Applicant Details

Alannah Hurley,
Coakley O' Neill Town Planning Ltd
NSC Campus
Mahon
Cork
T12 H7AA

08-Jun-2022

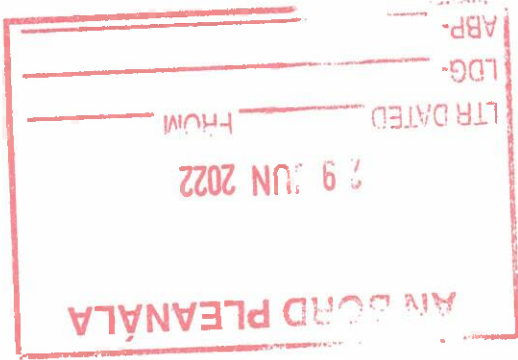
E: planning@dublincity.ie

T: (01) 222 2288

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Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

An Roinn Pleanála & Forbairt Maoin, Bloc 4, Urlár 3, Oifigi na
Cathrach, An Ché Adhmaid, Baile Atha Cliath 8.

Handwritten signature



For Administrative Officer

Signed on behalf of Dublin City Council

08-Jun-2022

E. planning@dublincity.ie

T: (01) 222 2288

Planning & Property Development Department, Block 4, Floor 3,
 Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

An Roinn Pleanála & Forbairt Maoinne, Bloc 4, Urlár 3, Oifigi na
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