

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 3987/15

An Bord Pleanála Reference Number: PL 29S.246119

APPEAL by An Taisce of The Tailor's Hall, Back Lane, Dublin against the decision made on the 12th day of January, 2016 by Dublin City Council to grant subject to conditions a permission to Hibernia REIT Public Limited Company care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Proposed development comprising of 10 year planning permission for Phase 2 of the redevelopment of the overall site (Phase 1 is permitted under planning register reference number 2527/15). The proposed development also includes minor amendments to the permitted Phase 1 to allow integration with the proposed Phase 2 development. The proposed development consists of the following: Demolition of existing buildings on the site and the existing wall to Charlotte Way. The development of a mixed use development of seven storeys above ground, with a setback at seventh storey (sixth floor), and a lower ground floor level for office accommodation, all above one number basement level, comprising of 16,630 square metres total gross floor space. The development comprises of 1,115 square metres gross of retail/retail services/café/restaurant floor space at ground floor level to Charlotte Way including provision of an outdoor seating area, and 15,515 square metres of office floor space. Roof terraces are provided at sixth floor level on the south, east and west elevations. Plant enclosures and a green roof will be provided at roof level; provision of a landscaped open space area to Harcourt Street and public realm upgrades to Charlotte Way. Provision of a vehicular link from Charlotte Way to basement level to serve the proposed Phase 2 and the permitted Phase 1 development

and the omission of the permitted vehicular entrance from Harcourt Street as permitted under Phase 1. The proposed Phase 2 basement comprises of 43 number car parking spaces, 166 bicycle parking spaces, shower, changing and locker facilities, loading bays, plant areas, waste storage and other ancillary areas. Amendments to the permitted Phase 1, including amendments to the permitted southern façade to provide integration with the proposed integration with the proposed Phase 2 development. The development includes all associated site development works, hard and soft landscaping and all other ancillary works, all on a 0.38 hectare site at Harcourt Square, Harcourt Street, Charlotte Way, Dublin.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the Objective Z6 (enterprise and employment) zoning objective for the area in the Dublin City Development Plan 2011 – 2017, and to the pattern of development in the area including the proximity to the south inner city office core, to the existing use of the site for office accommodation and the dated form of this accommodation, to the planning history of the site, and to the scale and design of the proposed new development, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have a significant adverse impact on the character or setting of any protected structure or the conservation area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:-
 - (a) The proposed Block A1 shall be cut back by nine metres from the proposed building line along Harcourt Street, from level 00 (Ground Floor) to level 05 (Fifth Floor), and the proposed terrace at level 06 (Sixth floor) shall be correspondingly reduced in extent;
 - (b) The proposed corner angle set back envisaged for the junction of Charlotte Way and Harcourt Street at levels 00 and 01 shall be replicated at the new front building line resulting from the cutting back of Block A1 as set out above;
 - (c) The public realm envisaged for Charlotte Way and Harcourt Street shall be increased and extended by the corresponding nine metres in depth/width, resulting from the cutting back of the building as set out above.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to reduce the visual impact of the proposed development on the streetscape of Harcourt Street and in particular on views southwards along Harcourt Street, in accordance with the provisions of the Development Plan regarding the protection of significant views under Policy SC7.

3. Prior to the first occupation of the proposed development, details of the exact use(s) of the ground floor unit(s) fronting Charlotte Way (whether retail, retail services, café or restaurant, or a combination of such uses) shall be submitted to, and agreed in writing with, the planning authority. Any subsequent change of use of the ground floor unit(s) shall be the subject of a separate grant of planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them.

Reason: To ensure consistency with the uses indicated in the planning application, and to allow the planning authority to assess any future changes of use through the statutory planning process, in the light of the circumstances then obtaining.

4. The period during which the development hereby permitted may be carried out shall be 10 (ten) years from the date of this order.

Reason: Having regard to the nature of the development applied for, it is considered appropriate to specify a period of validity of this permission in excess of five years

5. Water supply and drainage arrangements, including the attenuation and 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.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network including the location of the proposed off-site staging area;
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - (i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
 - (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
 - (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

9. Locations for the monitoring of noise, dust emissions and vibration during the construction phase of the proposed development together with appropriate limits, the methodology to be employed and procedures for recording and reporting of results shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any development on site.

Reason: To protect the amenities of property in the vicinity.

10. Details of the materials, colours and textures of all the external finishes to the proposed buildings, together with details of all signage to the proposed commercial units fronting Charlotte Way, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

11. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs, advertisement structures, banners, canopies, flags, or other projecting elements, other than the signage agreed with the planning authority under condition 10 of this permission, shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess any further signage or other structures through the statutory planning process.

12. Prior to the commencement of development the following requirements of the planning authority shall be complied with:

- (a) The submission of a method statement for the in-situ protection, and later relocation of the Luas Tram stop cubicle and other associated electrical equipment, including overhead conductor system (OCS) poles located adjacent to the existing southern boundary of the site.
- (b) The developer shall liaise with Dublin Bus and the National Transport Authority regarding any works impacting on the existing bus stop on the northern side of Charlotte Way adjoining the site.

Reason: To ensure the protection of existing transportation infrastructure in the development.

13. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

14. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, other than those specifically shown on the drawings submitted with the planning application, unless authorised by a further grant of planning permission.

Reason: To protect the amenities of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess any further structures through the statutory planning process.

15. The landscaping scheme shown on Mitchel and Associates Drawings Numbers LHAR004/100.2 and LHAR004/101.2, submitted to the planning authority on the 10th day of November, 2015, (as modified by condition 2(c) of this permission), shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

18. The developer shall pay to the planning authority a financial contribution in respect of the proposed Metro North Scheme, 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

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.