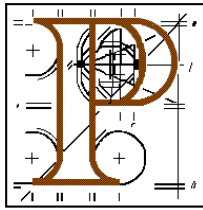


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 2024/16

An Bord Pleanála Reference Number: PL 29N.246933

APPEAL by Smithfield Village (Management) Limited care of Jim Brogan Planning and Development Consultant of Unit B1 Laurel Lodge Business Centre, Laurel Lodge, Castleknock, Dublin and by An Taisce of The Tailors' Hall, Back Lane, Dublin against the decision made on the 20th day of June, 2016 by Dublin City Council to grant subject to conditions a permission to Linders of Smithfield Limited care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development at a site formerly known as the 'Irish Distillers Building', Smithfield, Dublin. The site is bounded by Phoenix Street to the south, Smithfield Square to the west, New Church Street to the north and Bow Street to the east. The site includes the surface car park adjacent to the Irish Distillers Building. The site includes a surface car park adjacent to the existing building. The development consists of site clearance works including the part demolition of the existing Irish Distillers building and the incorporation of part of its existing stone walls (fronting Bow Street to the east including return frontage onto Phoenix Street and partly along New Church Street to the north) within the new proposed commercial building that ranges in height between four and seven storeys above double basement level with a total Gross Floor Area (GFA) of 20,512.6 square metres (above ground floor level) to include 18,236 square metres (GFA) of office floorspace; 458 square metres Net Floor Area (NFA) of retail floorspace in two number units; 169 square metres (NFA) of restaurant space (one number unit) and 241.2 square metres (NFA) of restaurant/bar floorspace (one number unit) at

ground floor level. An ESB sub-station is proposed at ground floor level at the north-eastern corner of the proposed building. Three roof terraces are proposed at fifth floor level of which two are provided to the southern elevation and one to the northern elevation. A further three roof terraces are provided at the north-western, south-western and south-eastern corners of the proposed building at sixth floor level. Pedestrian accesses are provided at ground floor level along all four of the proposed buildings frontages leading to a central atrium that contains the main stair/lift cores and reception facilities on the eastern and western sides of the central atrium. A vehicular access ramp is provided off Bow Street to the east serving the double basement level car park containing 47 number car parking spaces and 188 number bicycle parking spaces (in addition to 24 number ground floor level cycle parking spaces), and shower and changing facilities. Ancillary waste storage areas, archive, plant and storage rooms are also provided at basement levels. A combination of hard and soft landscaping measures are proposed along all elevations to enhance areas of public realm. The proposed building includes for the provision of sustainable and renewable energy measures including green roofs and roof top solar panels.

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

In making its decision, the Board had regard to the nature of the proposed use and its very substantial scale located in the centre of Dublin City beside a major public transport corridor and the extensive civic space at Smithfield. A space of this size requires a proper level of enclosure and animation to make it attractive, which in turn requires that the development which fronts it is at a suitable scale to provide the necessary visual contrast and human activity. The proposed development would be in accordance with the Z5 'city centre' zoning objective that applies to the site and with the other provisions of the Dublin City Development Plan 2016-2022 (which do not materially differ from the provisions of the previous development plan with respect to the proposed development), would achieve a reasonable standard of architectural design and contains measures to protect the architectural heritage of the area including the retention of the probable late 19th century cut limestone wall along Bow Street and Church Street and the re-establishment of a building line along the east side of Smithfield and would ensure that the proposed development did not unduly overshadow, overlook or overbear the apartments at Smithfield Village to the north. The proposed development would improve the pedestrian access to the Luas stop to its south and having regard to the foregoing and subject to compliance with the conditions set out below, it is considered that the proposed development would make a positive contribution to the character and amenities of the area and 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, as amended by the further plans and particulars submitted on the 24th day of May, 2016, 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. Full details of all external materials, colours, finishes, shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any render finish shall be self-finish and shall not need painting. A window display shall be maintained at all times in the ground floor retail, bar and restaurant units and the glazing to those units shall be kept free of all stickers, posters and advertisements. No signs, advertisements or similar things shall be erected or displayed anywhere on the outside or through the external windows of the building other than in accordance with the details agreed under this condition, and no projecting structures including banners, flags or canopies shall be erected, whether or not they would otherwise constitute exempted development.

Reason: In the interest of visual amenity.

3. Public access from the street shall be maintained to each of the retail, bar and restaurant units at all times during which they are open for business.

Reason: To protect the activity and amenity of the public streets around the site.

4. The proposed solar panels shall be omitted from the authorised development. 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, unless authorised by a further grant of planning permission.

Reason: To protect the residential of property in the vicinity and the visual amenities of the area.

5. Prior to commencement of development, the developer shall submit and agree in writing with the planning authority and Transport Infrastructure Ireland a detailed construction method statement that shall be sufficient to ensure that the carrying out of development does not interfere with the operation of the Luas, or with pedestrian or traffic movements in the area.

Reason: To protect public safety and convenience.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

8. (1) Prior to the commencement of development, the requirements of the planning authority in relation to the following matters shall be ascertained and the developer shall ensure compliance with same as agreed in writing:
 - (a) a residential notification procedure;
 - (b) measures for the effective control of fumes and odours from the restaurant premises to be implemented before the use commences; and
 - (c) noise levels from the proposed development including the use or otherwise of amplified music in the external areas of the development.
- (2) 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) delivery of materials, 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 particularly installation of hoardings on the site adjoining the Luas line;
- (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 and measures to ensure that no vehicles are allowed to queue to enter or exit the site;
- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (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) provision of parking for existing properties during the construction period;
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) the disposal and removal of felled trees, including chipping;
- (m) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and

- (n) 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 order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings and in the interest of public health and safety.

- 9. A plan containing details for the management of waste and recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall ensure that no goods or waste associated with the operation of the proposed development may be stored outside the curtilage of the authorised building or in direct public view, and that the bye laws governing the collection, storage and presentation of waste can be complied with. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

- 10. 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.

Reason: In the interest of sustainable waste management.

11. 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 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.

12. The developer shall prepare and obtain agreement in writing from the planning authority for a scheme of soft landscaping of a quality and standard that compliments the location and design of the proposed development.

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

13. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, to provide for a scheme of high quality soft landscaping to include suitable trees to be undertaken in Smithfield. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

14. 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.

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

Dated this day of 2016.