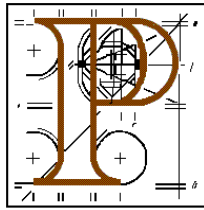


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Dublin City

Planning Register Reference Number: 2971/16

An Bord Pleanála Reference Number: PL 29N.247623

APPEAL by An Taisce of The Tailor's Hall, Back Lane, Dublin against the decision made on the 27th day of October, 2016 by Dublin City Council to grant subject to conditions a permission to Linders of Smithfield care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Amendment of a previously permitted development under Dublin City Council planning register reference number 3045/09 (An Bord Pleanála appeal reference number PL 29N.234398), as subsequently extended in duration under Dublin City Council planning register reference number 3045/09/x1. The proposed amendments to the previously permitted development provides for the omission of the permitted ground floor Mezzanine Level (705 square metres gross floor area), the incorporation of the previously permitted penthouse level into the main building envelope by increasing the previously permitted five-storey shoulder height of the building from 27.09 metres above Ordnance Datum to provide a uniform six-storey building height of 28.68 metres above Ordnance Datum resulting in an increased 5th floor level floorplate from 915 square metres to 1,420 square metres gross floor area, together with external alterations to provide a completely revised design/façade treatment to the permitted northern, southern, eastern and western elevations. No alterations are proposed to the permitted building footprint or the permitted uses. The overall permitted building height is reduced from 31.05 metres above Ordnance Datum (top of permitted penthouse level) to a uniform 28.68 metres above Ordnance Datum

height due to the omission of the previously permitted Mezzanine Level and the associated rationalisation of finished floor levels. Due to the omission of the ground floor Mezzanine Level and the increased 5th floor level floorplate, the overall gross floorspace of the permitted building is marginally reduced from 11,560 square metres to 11,360 square metres (including basement levels). Reduction of car parking spaces at Basement Level -1 from 23 spaces to 20 spaces together with a reduction of bicycle storage at Basement Level -2 from 115 spaces to 75 spaces. All at numbers 1-6 Haymarket, numbers 56-58 Smithfield, including Smithfield Chambers, Smithfield Dublin (the site is bounded by Haymarket to the north, Arran Quay Terrace to the south, Burgess Lane to the west and Smithfield to the east).

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 provisions of the Dublin City Development Plan 2016-2022, the planning history of the subject site and the existing and emerging pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, would not be out of character with the conservation areas or the amenities of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety. 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. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing, with the planning authority. This shall include proposals relating to the public realm immediately adjacent to the site including Burgess Lane.

Reason: In the interest of orderly development and the visual amenities of the area.

3. (i) Prior to commencement of development, a Construction Management Plan shall be submitted to, and agreed in writing with, the planning authority. The plan shall be prepared following consultation with local residents and business operators. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste, together with construction access and egress arrangements and locations of plant and machinery compounds.
- (ii) The developer shall liaise with Transport Infrastructure Ireland when formulating this plan and the following shall be implemented: -

- (a) Hoarding or scaffolding to the south façade shall not compromise pedestrian and tram driver visibility.
- (b) Any scaffolding or electrically conductive objects within two metres of the nearest Luas running rail (the OCS fall zone) will require earth bonding via a voltage limiting device.
- (c) The provision of vibration and settlement monitoring shall be implemented along with all measures noted in the construction and demolition methodology submitted on the 30th day of September, 2016.

Reason: In the interest of amenities and public safety.

- 4. A window display shall be maintained at all times to the commercial/café unit and retail/restaurant unit at ground floor level. The glazing of both of these ground floor units shall be kept free of all stickers, posters and advertisements.

Reason: In the interest of visual amenity, and to provide for animation at ground floor level to the public realm.

- 5. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity, and to permit the planning authority to assess the design quality and appearance of such matters prior to commencement of development.

6. Apart from the agreed signage referred to in condition number 5 of this order, and notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the proposed building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and orderly development and to permit the planning authority to assess any such development through the statutory planning process.

7. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

8. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a prior grant of planning permission.

Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Car parking spaces shall not be sold, rented, sub-let or leased to other parties, or otherwise assigned separate to the use to serve the development.

Reason: To prevent inappropriate parking and in the interest of sustainable transport.

10. 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 and to ensure a proper standard of development.

11. 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 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.

12. 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 Dublin Region.

Reason: In the interest of sustainable waste management.

13. 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.

14. Prior to commencement of development, a scheme for the effective control of fumes and odours from the premises shall be submitted to, and agreed in writing with, the planning authority. The agreed scheme shall be fully provided and implemented prior to first use of the ground floor units, and thereafter shall be permanently maintained.

Reason: In the interest of protecting the residential amenities of nearby properties.

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

16. Each office floor shall be provided with changing and shower facilities to cater for cyclists employed in the building. Prior to commencement of development, revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of sustainable transport.

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 the 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 2017.