



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 4596/17

Appeal by Widestar Limited care of RPS Group Limited of West Pier Business Campus, Dún Laoghaire, County Dublin against the decision made on the 23rd day of February, 2018 by Dublin City Council in relation to an application by the said Widestar Limited for permission for (1) the retention of (a) alterations to the shopfront at 39/40 Drury Street, (b) alterations to the shopfront of 8/9 South William Street, (c) plant at roof level of 8/9 South William Street, (d) alterations to the internal layout of the existing licensed premises and (e) the permanent retention of an outdoor seating area at street level in front of 8/9 South William Street serving the existing licensed bar and restaurant to include 4 tables and 12 chairs surrounded by 1.5 metre high wind breakers (of glass and solid panels) and a planter, to remain in use during the business hours of the licensed premises; (2) the change of use of the first and second floors of 39/40 Drury Street as well as the associated ground floor entrance (the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street) (total 365.7 square metres), from 'wholesale fashion warehouse' to 'office'; (3) the provision at first floor level of 179.8 square metres of additional office floor space located on the roof to the rear of the existing first floor level office space at 8/9 South William Street and connecting to the proposed first floor office space at 39/40 Drury Street (this will include the demolition of existing temporary roofing and provision of permanent roofing and new walls); (4) the provision at first floor level of 17.1

square metres additional office floor space located over existing stairs to ground floor level and (5) the provision of new backlit metal signage at the entrance to the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street, all located at site known as Dakota Bar and Grill, 8/9 South William Street and 39/40 Drury Street and as well as the premises formerly known as Fashion Fair, also at 39/40 Drury Street, Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for the retention of (a) alterations to the shopfront at 39/40 Drury Street, (b) alterations to the shopfront at 8/9 South William Street, (c) plant at roof level of 8/9 South William Street, (d) alterations to the internal layout of the existing licensed premises and (e) the retention of an outdoor seating area at street level in front of 8/9 South William Street serving the existing licensed bar and restaurant to include 4 tables and 12 chairs surrounded by 1.5 metre high wind breakers (of glass and solid panels) and a planter, to remain in use during the business hours of the licensed premises; (2) the change of use of the first and second floors of 39/40 Drury Street, as well as the associated ground floor entrance (the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street) (total 365.7 square metres), from 'wholesale fashion warehouse' to 'office'; (3) the provision at first floor level of 17.1 square metres additional office floor space located over existing stairs to ground floor level and (5) the provision of new backlit metal signage at the entrance to the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street and to refuse permission for the first floor office extension (179.8 square metres) on the roof to the rear of the buildings).

Decision

GRANT permission for (a) retention of alterations to the shopfront at 39/40 Drury Street; (b) retention of alterations to the internal layout of the existing licensed premises; (c) retention of an outdoor seating area at street level in front to 8/9 South William Street serving the existing licensed bar and restaurant to include 4 tables and 12 chairs surrounded by 1.5 metre high wind breakers (of glass and solid panels) and a planter, to remain in use during the business hours of the licensed premises; (d) permission for the change of use of the first and second floors of 39/40 Drury Street, as well as the associated ground floor entrance (the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street from 'wholesale fashion warehouse' to 'office'; (e) the provision at first floor level additional office floor space located over existing stairs to ground floor level and (f) the provision of new backlit metal signage at the entrance to the former Fashion Fair stairs and elevator lobby, formerly known as 40 Drury Street in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below and to REFUSE permission for the first floor office extension on the roof to the rear of the buildings based on the reasons and considerations marked (2) under.

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 (1)

Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development and development for which retention is sought would not seriously injure the amenities of the area or of property in the vicinity. The proposed development and development for which retention is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained and carried out and completed (as applicable) 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 temporary roof structure shall be removed and the windows to the rear elevations of the buildings shall be reinstated. Revised drawings indicating same shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this Order.

Reason: In the interests of clarity.

3.
 - (a) Permission for the outdoor seating area in front of 8/9 South William Street is granted for a limited period of three years from the date of this Order at which date the permission shall cease unless a further permission has been granted before the expiry of this grant of permission.
 - (b) The permitted seating area shall be reduced to allow for a minimum width of 1.9 metres from the outer edge of the outdoor seating area to the edge of the footpath. The applicant shall submit a revised drawing detailing the reduced seating area to be agreed in writing with the planning authority within one month of the date of this Order and shall carry out the agreed works within three months of the date of written notification by the planning authority of its requirements in this regard.
 - (c) Any repairs required to the public footpath as a result shall be borne by the developer in this regard.

Reason: In the interest of the proper planning and sustainable development, to ensure adequate pedestrian movement along the public footpath and so that the effect of the development may be reviewed having regard to the circumstances then prevailing.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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.

5. Water supply and drainage arrangements, including the disposal and attenuation 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. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings 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.

7.
 - (a) All entrance doors in the external envelope shall be tightly fitting and self-closing.
 - (b) All windows and roof lights shall be double-glazed and tightly fitting.
 - (c) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

8. Construction works relating to the proposed development shall only be carried out between the hours of 0800 hours and 1800 hours Monday to Friday, between 0900 hours and 1600 on Saturdays and at no time on Sundays or Public Holidays.

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

9. 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. 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.

11. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City 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.

Reasons and Considerations (2)

The first floor office extension to the rear, located on the roof between the two buildings at 8/9 South William Street and 39/40 Drury Street would result in the overbuilding of the rear elevations, compromising the availability of natural light to the rear rooms of these buildings and those of adjoining properties and would result in overdevelopment of this site. The proposed development therefore would not be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant this element of the development, the Board generally agreed with the planning authority that the first floor office accommodation would impact negatively on the availability of light within the rear rooms of 8/9 South William Street and 39/40 Drury Street as well as those of adjoining properties and would, therefore, constitute overdevelopment of the site.

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

Dated this day of 2019.