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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3752/18**

**Appeal** by Ulysses House Management Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin and by Eimear Dunne of Apartment 44, Block C1, The Steelworks, Foley Street, Dublin against the decision made on the 12<sup>th</sup> day of October, 2018 by Dublin City Council to grant subject to conditions a permission to E to Infinity ICAV acting on behalf of its sub-fund Blacklion Real Estate Fund care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The proposed development will consist of the demolition of an existing three storey industrial building with a gross floor area of 1,052 square metres, and construction of a seven-storey office building over one number basement level containing plant and ancillary facilities. The total gross floor area, including basement level, of the new office building will be 4,710 square metres. The northern and western facades of the building will be set back at sixth and seventh floor levels, with outdoor terrace areas provided at these locations. The building will be set back from Ulysses House to provide a ground level private open space of 125 square metres. The

proposed development includes basement level storage space for 47 number bicycles, hard and soft landscaping and all associated site development works; all at 17-21 Foley Street, 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 zoning objectives for the site and surrounding area and the provisions of the Dublin City Development Plan 2016-2022, the inner-urban location, including existing and permitted development in the area and the proximity to public transport facilities, it is considered that the proposed development, subject to compliance with the conditions set out below, would constitute an appropriate development at this location, which would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of its scale, form, height and urban design. 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. Details of all external finishes to the proposed development, including samples, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The external finishes to the building at ground floor level onto Foley Street and Joyce's Walk shall primarily comprise permanent clear glazing.

**Reason:** In the interest of the residential and visual amenity of the area.

3. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

- 4. Prior to commencement of development, details of all plant, machinery, chimneys, ducting, filters or extraction vents to be used in connection with the development (including any such items used in conjunction with the commercial uses hereby permitted) shall be submitted to, and agreed in writing with, the planning authority. These shall include details of any proposed sound attenuation measures to be incorporated within such plant, machinery, chimneys, ducting, filters or extraction vents.

**Reason:** To safeguard the amenities of property in the vicinity.

- 5. 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 amenities of property in the vicinity and the visual amenities of the area.

6. No external security shutters shall be erected on any of the commercial premises (other than at services access points) unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of visual amenity.

7. Notwithstanding the exempted development 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 building or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** To enable the planning authority to assess the impacts of any such changes on the amenities of the area.

8. Water supply and drainage arrangements, including the 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.

9. 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.

10. Prior to the commencement of development, a Construction Management Plan shall be submitted to, and agreed in writing with, the planning authority. This shall include a construction programme for the works, car parking, a traffic management plan, noise and dust mitigation measures, groundwater monitoring, wheel-washing facilities and details of construction lighting. The Construction Management Plan shall indicate the measures proposed to mitigate the impact of the construction activities (and associated activities including vehicle movements) on the amenities and operation of premises in the vicinity at all times during each phase of the construction of the proposed development.

**Reason:** In the interests of the amenities of the area and of property in the vicinity.

11. Site development and building works shall be carried out only between the hours of 0800 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 residential amenities of property in the vicinity.

12. 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] [within each house plot] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on this site at any time except within such buildings or storage areas as may have been approved beforehand in writing by the planning authority

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interests of protecting the environment and in the interests of the amenities of the area.

13. Proposals for a development name, office/commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of streets, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

**Reason:** To ensure the satisfactory completion of the development.

15. 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.

17. The developer shall pay to the planning authority a financial contribution in respect of Luas Red Line Docklands Extension (Luas C1) 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.

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

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**Dated this            day of            2019.**