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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3974/19**

**Appeal** by An Taisce of Tailors' Hall, Back Lane, Dublin against the decision made on the 5<sup>th</sup> day of November, 2019 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:** Amendments to a previously permitted development under An Bord Pleanála appeal reference number PL 29N.246933 (planning register reference number 2024/16) to include amendments to the previously permitted floorplans at ground to sixth floor levels, to include: (a) Infill of the permitted setback at the north-western corner at ground and first floor level, to provide an additional 31 square metres gross floor area of retail floorspace at ground floor level (to permitted Retail Unit Number 1) and the provision of an additional 13 square metres gross floor area of office floorspace at first floor level, (b) reducing the permitted setback adjoining the staircore to the southern elevation from second to fourth floor level with a corresponding expansion in the floorplate to provide an additional

51 square metres gross floor area of office floorspace (17 square metres gross floor area per floor), (c) reducing the permitted setback at the northern end of the western elevation at fourth floor level to provide an additional 72 square metres gross floor area of office floorspace together with the replacement of the remainder of the previously permitted green roof section and the formation of a new roof terrace that wraps around the north-eastern corner at fourth floor level, (d) at fifth floor level, the following changes are proposed - omitting the permitted roof terrace at the north-western corner and the permitted setbacks at both the northern and southern ends of the western elevation together with the omission of the permitted roof terraces to southern elevation at fifth floor level and the associated expansion of the floorplate to provide infill extensions of those areas to align the floorplate vertically with the fourth floor level (below) to deliver an additional 473 square metres gross floor area of office floorspace at fifth floor level. It is also proposed to omit the permitted north facing roof terrace to the east of the permitted staircore at fifth floor level and (e) at sixth floor level, the following changes are proposed - omitting the permitted roof terrace at the north-western corner and part of the green roof and infilling of same with additional office floorspace and extending the floorplate northwards and westwards to provide a new terrace that wraps around the north-western corner and provision of a new terrace to the north-eastern corner. Omission of permitted roof plant and extending the floorplate in an easterly direction to align with the eastern elevation at fifth floor level below. Amended east facing terrace and amending part of south facing terraces at south-eastern corner and omission of the west facing terrace and part of the south facing terrace at the south-western corner and the associated expansion of the floorplate to provide infill extension of these areas. An additional 907 square metres of office floorspace is proposed at sixth floor level. The proposed alterations to the permitted floorplans at ground to sixth floor level (as described above) would also result in associated external amendments to the permitted elevations, as follows: (i) eastern elevation - at the southern end of the building the permitted parapet height of 21.8 metres with two setback levels (at heights of 25.5 metres and

approximately 29.8 metres, respectively) is revised to a parapet height of approximately 25.9 metres with a single setback level at a height of approximately 29.8 metres. At the northern end the intermediate setback at fourth floor level with a height of 20.1 metres is omitted and extended vertically to a height of approximately 24 metres to be augmented with the previously permitted height of the fifth floor setback, (ii) western elevation - at the northern end of the building the permitted parapet height of 19.7 metres with two setback levels (at heights of 23.4 metres and approximately 27.5 metres, respectively) is revised to a height of 23.6 metres with a single setback level at a height of 27 metres. At the southern end the parapet height of 24.8 metres with a setback level at a height of 28.7 metres is raised to a uniform parapet height of approximately 28.7 with a corresponding parapet level of +33.61 metres, (iii) southern elevation - at the western end of the building the permitted parapet height of 24.9 metres with a setback level with a height of 28.8 metres is raised to a uniform height of approximately 29 metres. At the eastern end the permitted parapet height at a height of 22 metres with two setback levels at heights of 25.7 metres and 29.8 metres, respectively is raised to a parapet height of approximately 25.9 metres with a single setback level at a height of approximately 29.8 metres, (iv) northern elevation - at the eastern end of the building the intermediate setback at fourth floor level with a height of 20.1 metres is omitted and extended vertically to a height of approximately 24 metres to be augmented with the previously permitted height of the fifth floor setback level. At the western end the previous permitted parapet height of 19.9 metres is increased to a height of approximately 23.7 metres and the previous permitted setback level with a height of 23.2 metres is increased in height to approximately 27.7 metres. Alterations at rooftop level include the provision of rooftop plant and omission of condition number 4 of An Bord Pleanála appeal reference number PL 29N.246933 (planning register reference number 2024/16). The proposed rooftop plant screening enclosure sits at a level +36.310 metres, approximately 2.7 metres above corresponding parapet level (+33.61 metres). A photovoltaic (PV) solar panel area will also be provided at roof level,

immediately to the south of the enclosed plant area. In the interest of clarity, the above proposed alterations to the floorplans at ground to sixth floor level will result in (a) an overall increase of floorspace from an approved 20,521.6 square metres gross floor area to 22,059 square metres gross floor area - an increase of 1,546.4 square metres gross floor area comprising an increase of 31 square metres gross floor area of retail floorspace from 458 square metres gross floor area to 489 square metres and an increase of approximately 1,516 square metres gross floor area of office floorspace from 18,236 square metres to 19,752 square metres gross floor area. All at the former '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).

## **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 planning history of the site, to the location of the development and the pattern of development in the area, to the provisions of the Dublin City Development Plan 2016-2022 and to the nature, scale, layout and design incorporated in the proposed amendments to the permitted development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of adjoining properties or the visual amenities of the area. 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 carried out in accordance with the conditions attached to the permission granted under An Bord Pleanála appeal reference number PL 29N.246933 (planning register reference number 2024/16) on the 30<sup>th</sup> day of November, 2016, except as amended to conform with the provisions indicated in the plans lodged in connection with this application and with the following conditions.

**Reason:** To ensure consistency with the development as previously permitted.

3. 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.

4. 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 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

**Dated this            day of            2020.**