



An  
Bord  
Pleanála

## Inspector's Report

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<b>Development</b>	Demolition of part of existing building and erection of office building with commercial uses between 4 and 7 high
<b>Location</b>	Smithfield, Dublin 7
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2024/16
<b>Applicant</b>	Linders of Smithfield
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Appellants</b>	An Taisce Smithfield Village (Management) Ltd
<b>Observers</b>	Jerry Mulvihill Tony Flaherty
<b>Date of Site Inspection</b>	21 <sup>st</sup> October 2016
<b>Inspector</b>	Stephen J. O'Sullivan

## 1.0 Site Location and Description

1.1. The site is near the southern end of the eastern side of Smithfield in central Dublin. It has a stated area of 0.44ha. It consists of a city block bounded to the west by Smithfield, to the south by the red Luas line, to the west by Bow Street, and to the north by New Church Street. It is occupied by a three storey office building formerly occupied by Irish Distillers. That building dates from the 1970s, but its elevations onto Church Street and Bow Street incorporate the walls of a previous warehouse that are of cut limestone. The building stands on the eastern part of the site. A surface car park occupies most of the rest of the site, landscaped with trees. On the opposite side of New Church Street stands the Children's Court, housed in a three storey building, and the Smithfield Village apartments in a former distillery which is up to 6 storeys high. The back of the church yard of St Michan's is on the opposite side of Bow Street, as is the end the four storey Law Library Building. The Phoenix Court Building lies on the other side of the Luas line to the south of the site. It rises to 8 storeys.

## 2.0 Proposed Development

2.1. It is proposed to demolish the existing building and clear the site, except for the stone walls of the old warehouse which would be retained. It is then proposed to erect a building of 20,512m<sup>2</sup>. The ground floor would contain 486m<sup>2</sup> of retail use in two shops, a restaurant of 169m<sup>2</sup> and a bar or restaurant of 241m<sup>2</sup>. The rest of the development would contain 18,236m<sup>2</sup> of office or commercial use from the ground to the sixth floor. The roof parapet on the sixth floor would be at a height of 33.61m OD, which would be 29.16m over the ground level on the southern side of the building or 27.625m over that on its northern side. There would be some setback of the fourth and fifth floors from parts of the northern and western sides of the building, with a greater setback of the sixth floor. There would be two basement levels containing 47 car parking spaces, 188 spaces for bicycles as well as plant and ancillary facilities. The building would be arranged around an atrium with two service

cores. The existing cut stone wall along Church Street and Bow Street would be retained, while brick and natural stone would be used in the new elevations around extensive glazing.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to grant permission subject to 21 conditions, none of which significantly altered the proposed development.

#### **3.2. Planning Authority Reports**

- 3.2.1. The planner's report agreed with the conclusions in AA screening report submitted with the application that the development was not likely to have significant effects on any Natura 2000 site. Office use is permissible under the Z5 zoning in the 2011 city development plan. The proposed building could function as a prominent HQ. It would therefore contribute to the regeneration of the area and would comply with its zoning objective. It would have active ground floor frontage and the façade treatment and building design should result in a positive engagement with the streetscape, particularly at the main frontage onto Phoenix Street and the Luas stop. Double height colonnades would provide access from this side of the proposed building and from Smithfield. The architectural treatment of the building is very positive. The two storey limestone walls along Bow and Church Streets would be retained, which is a key distinction from the previous proposed refused under 2660/11. The City Archaeologist, whose remit includes industrial heritage, does not object to the proposal. The site does not include a protected structure. Its historic built form would have included frontage onto Smithfield. The proposed development represents an appropriate design response to the historic streetscape qualities of the area. Given the extensive civic space at Smithfield and the challenges in animating

it, the retention of open space on the site would not have merit in terms of urban design. The proposed plot ratio of 4.63 is above the range recommended at section 17.4 of the development plan. However the proposed development complies with the majority of exceptional criteria laid out in that section because it has an appropriate mix of uses; is on a high quality public transport corridor, will result in the re-development of an under-utilised site in a regeneration area, and will re-instate the streetscape at an important corner of Smithfield. The proposed height of 4 to 7 stories complies with the standards set out in variation 14 to the development plan. The overall height responds to context, with a significant variation of heights in the vicinity. The 3 storey heights of the redbricks at Smithfield should not determine those for an important city block by a major civic space on the Luas line in the inner city. The use of different materials and elements on the elevations reduces the massing of the proposed building, particular compared to the monolithic style of the previous proposal for which permission was refused. The proposed solar panels would be visible from the other side of Smithfield and the quays, and should be omitted. The light analysis submitted by the applicant referred to 12 windows. The development would fail to meet the standard in BS 8206-02 at six of them with respect to the vertical sky component, but would meet the standard for the average daylight factor at all of them. The planner accepts that the analysis establishes that the development would not have a detrimental impact on daylight levels of the apartments opposite. The existing underutilization of the site results in an artificially high level of daylight and sunlight being available for this urban/inner city context. The setback of the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> floors would ensure that the apartments retained an acceptable outlook, and distinguishes the current proposed from the one previously refused. The predicted impacts on the are considered acceptable for this context.

The report recommended that further information be sought to address the concerns raised by TII and the council's roads department about the impact on the Luas, and

to seek to omission of the solar panels. The submitted information was considered acceptable and a grant of permission was recommended.

3.2.2. The **City Archaeologist** recommended that works be monitored under condition.

3.2.3. The **Roads and Traffic Planning Division** stated that the development was acceptable in principle but that a road safety audit and construction method statement should be sought with respect to the impact on the Luas. The details submitted as further information were considered acceptable and the division stated no objection to the proposal.

3.2.4. The **Drainage Division** raised no objection to the proposed development.

### 3.3. **Prescribed bodies**

3.3.1. **Transport Infrastructure Ireland** noted that the proposed removal of the southern boundary wall from the site would increase the space available for pedestrians at the Luas stop, but may induce them to walk across Bow Street along the Luas track where there are no footpaths. A road safety audit should address this matter. A method statement should also be required for demolition and construction, and the developer must provide for the relocation of an equipment cabinet and overhead contact system in line with the TII's requirements. The applicant addressed these matter in the further information submitted to the planning authority, but a further submission from TII was not received.

3.3.2. **An Taisce** objected to the development on grounds similar to those raised in its subsequent appeal.

### 3.4. **Third Party Observations**

Third parties objected to the proposed development on grounds similar to those raised in the appeal and observations upon them. It was also argued that the parking was inadequate and that the increased traffic generated by the development would impede movement in the area.

### 4.0 **Planning History**

2660/11 – the planning authority refused permission for a 7 storey office building of 25,415m<sup>2</sup> for 5 reasons which related to: the total demolition of the existing building and the loss of the remains of the former warehouse; proximity to the public sewer on Bow Street; inadequate setback from the Luas stop and interference with pedestrian movement there; overshadowing of apartments at Smithfield Village; an excessive plot ratio of 5.18:1 and consequent overdevelopment of the site.

1502/02 – the planning authority granted permission for a 6/7 storey office building of 23,490m<sup>2</sup> with 9 retail units.

### 5.0 **Development Plan**

The Dublin City Development Plan 2016-2022 came into force on 21<sup>st</sup> October 2016. The site is zoned under objective Z5. 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. The strategy for the zoning is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city by day and by night.

Standards for building heights and volumes are set out in section 16 of the plan. An indicative standard for plot ratios in the Z5 zone is set between 2.5 and 3.0 in section 16.5. The section also states that plot ratios cannot determine built form. It states that a higher plot ratio may be permitted in certain circumstances such as –

- *Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed*
- *To facilitate comprehensive re-development in areas in need of urban renewal*
- *To maintain existing streetscape profiles*
- *Where a site already has the benefit of a higher plot ratio*
- *To facilitate the strategic role of institutions such as hospitals*

Section 16.6 sets an indicative standard for site coverage in the Z5 zone of 90%.

Section 16.7 states that Dublin should remain a predominantly low rise city.

Commercial buildings in the inner city are classified as low rise to a height of 28m.

The site does not contain a protected structure and is not in an Architectural Conservation Area. It is beside a non-statutory conservation area designated by the development plan at Smithfield and Bow Street. St Michan's Church to its rear is a protected structure. Policy CHC1 of the plan is to seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city. Policy CHC4 is to protect the special interest and character of all Dublin's Conservation Areas . Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible, and sets out examples of enhancement opportunities and things that development should not be.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the appeal from An Taisce be summarised as follows:

- The scale and bulk of the proposed development are excessive and it would have a significant negative effect on the residential amenity of the apartments at Smithfield Village; upon the setting of the protected structure of St. Michan's Church and its attendant graveyard; and on the prominent civic space at Smithfield. It would be contrary to the provisions of the 2011 city development plan, in particular to those relating to conservation areas.
- Section 17.10.8 of the 2011 city development plan states that all new buildings in conservation areas should complement and enhance their character and should not constitute a visually obtrusive or dominant form of development. The current proposal would be a dense development of 7 storeys on a site that was essentially cleared of its current development. As such is it similar to that which the planning authority refused under Reg. Ref. 2660/11, but with a proposal to retain part of the cut limestone wall from the previous warehouse. The existing office block represents a good example from the 1970s of the reuse and adaption of part of the historic built fabric of the city. The proposed development would also result in the loss of the trees which should be retained as part of one of the green routes designated in figure 11 of the development plan.
- Various comments in the report from the applicant's historic building consultant are contested. The relevant conservation area is the one at Smithfield and not that along the Liffey Quays. The L-shaped warehouse whose walls were retained was the main structure on the site and was not just a remaining shed. The opes installed in the 1970s are characteristic of that period whose design is also in line with the character of the historic built fabric that was retained. The City Architect and Conservation Officer did not have



adequate input into the planning authority's decision. The CGI photomontages and Architectural Design Statement submitted by the applicant were not available on the planning authority's website.

- The height of the proposed building is excessive. It would be too high for the small intimate city street at New Church Street and would overshadow that apartments at Smithfield Village on the other side of that street. It would contravene the requirement stated at section 16.1.3 of the 2011 development plan that heights should provide a proper level of enclosure for a street. A height of 7 storeys is problematic for Dublin as the city scale is lost after 5 or 6 storeys. The building on the west side of Smithfield is out of scale with the redevelopment on its east side. The proposed development would interfere with the backdrop of St. Michan's Church and the town of St. Paul's Church on Arran Quay. The plot ratio of 4.63 would exceed the range of 2.5-3.0 set out in the development plan. The Luas red line is not a major public transport corridor that would justify such an exceedance.

6.2. The appeal from Smithfield Village (Management) Ltd. can be summarised as follows-

- Due to its height, scale and mass the proposal would constitute overdevelopment that would seriously injure the amenities of Smithfield and those of the apartments in the appellant's building. It would be disharmonious and obtrusive and would contravene the policy in the current development plan to protect conservation areas, and that in the draft development plan. If a new development plan becomes operative before the board decides the appeal, then natural justice would require parties to be given the opportunity to make further submissions. The height of the proposed development is at the upper limit of 28m specified in the development plan. This height is

excessive, however, as it has led to a failure to comply with numerous other requirements of the development plan.

- The drawing submitted on the contextual elevation (west) shows facades of buildings that are not visible from ground level at Smithfield. As such it is misleading and does not provide a useful basis for determining the impact of the proposed development.
- The proposed development would not provide an appropriate mix of uses and so would be contrary to the requirement at section 17.1.3 of the city development plan and the Z5 zoning of the site.
- The exceedance of the plot ratio recommended in the development plan is not justified by reference to the exception criteria set out in section 17.4 of the city development plan. Its use mix is inappropriate and lacks homes; the area is not now in need of urban regeneration; and the proposed development would not maintain an existing streetscape or higher established plot ratio.
- The trees on the site area a long established amenity for the area. At the very least the front row should be retained.
- The development would overshadow and overlook that apartments at Smithfield village. Only a 13m separation distance from them would be maintained, rather than the required standard of 22m. The BRE report recommends that the sunlight of existing buildings may be adversely affected if a test point receives less than 80% of its former APSH during the annual or winter periods. This is the appropriate standard for evaluating the impact of the development on existing dwellings. For many points this impact will be significant. At point G the percentage of probable sunlight hours in summer would fall from 42 to 27, and in winter from 23 to 9. At point J the summer percentage would fall from 52 to 34, while the winter one would fall from 21 to 4. These are significant differences that will have an adverse impact on the existing apartments. The proposed development would also interfere with the

outlook from those apartments. The cumulative impact on light, privacy and outlook would cause a serious injury to the residential amenities of the effected apartments.

### 6.3. **Planning Authority Response**

The planning authority's response refers to the planner's report on the application.

### 6.4. **Other Party Responses**

The applicant's response to the appeals can be summarised as follows:

- The area around Smithfield has underperformed in recent years compared to other central and suburban areas that have attracted significant office development. Its continued improvement and regeneration required further investment on underutilised sites at an appropriate intensity to generate activity and footfall at Smithfield. The current site provides 4,100m<sup>2</sup> of office space on 0.44ha, and so is underutilised. The surrounding built environment includes buildings of 7 storeys to the south and on the west side of the square, as well as buildings along Bow Street to the north ranging from 3 to 6 storeys. The design in this case includes a setback of storeys on the northern side of the site and the retention of the cut stone walls of the old warehouse in order to respond to the reasons for the refusal of permission under Reg. Ref. 2660/11.
- With respect to the proposed uses and the zoning of the site, it is stated that there is a mix of uses around Smithfield with no one class predominating. Published reports are quoted to the effect that there is a particular demand for office space in central Dublin and that vacancy rates are currently unusually low, and that no large floor plate Grade A office accommodation is available in

the area. The proposed development would provide active ground floor uses. It would provide commercial use at a suitable and sustainable level of intensity on a public transport corridor beside the Smithfield Luas stop. The nature, mix and scale of the proposed uses would therefore be in keeping with the Z5 zoning objective that applies to the site and the area.

- With regard to height and scale, section 17.4 of the 2011 development plan states that the restrictions on height take precedence over the recommendations on plot ratio. A scheme does not have to meet all the exceptional criteria to justify a plot ratio above 3.0. The current proposal meets most of the criteria, in that it would have an appropriate mix of uses upon an underutilised brownfield site in need of regeneration on a public transport corridor. The proposed site coverage of 71% is well below the recommended maximum of 90%. The physical context of the site is that of a street block of 0.44ha on a public transport corridor, which is sufficient to comfortably accommodate a substantial redevelopment at a sustainable density in keeping with section 17.4 of the development plan.
- With regard to residential amenity, setbacks are provided on the northern side of the proposed development to protect the amenities of neighbouring residents. The unobstructed outlook that is currently available from the apartments at Smithfield Village is unusual in an urban context. A daylight assessment submitted with the application showed that the development would not reduce the average daylight factors in those apartments below the standards set down in BS 8206-02, while minimum sunlight levels would also be maintained. A separation distance of 22m would not be a practical or appropriate standard for privacy in an urban area.
- With respect to the conservation of heritage, the present open setting of the site compromises the original sense of enclosure around Smithfield. The proposed development would re-establish a building line that was breached in the 1970s. It will also retain the cut limestone walls on Bow Street and New

Church Street. The setting of St Michan's Church and its graveyard has been altered by 20<sup>th</sup> century development. It will not be compromised by the proposed development. Nor will the landmark quality of St Paul's Church be effected. The design of the proposed development would complement and enhance the eclectic character of the conservation area beside it.

- The proposed loss of trees is acceptable on a significant regeneration site addressing a major civic space. The similar removal of trees was authorised by the permission issued under Reg. Ref. 1502/02. The objectives for green routes in the development plan refers to the planting of street trees and would not require the retention of trees on private property. The council has recently removed trees from the square in order to facilitate better landscaping using potted beeches. A requirement to retain the trees on the site would undermine the viability of its regeneration at an appropriate density.

## 6.5. Observations

### 6.5.1. The observation from Jerry Mulvihill can be summarised as follows-

The observer lives in an apartment at Smithfield Village. It is also his place of work as an artist and author. The proposed development will detract from the light that is important for his work as an artist. A similar development was refused permission several years ago. The noise and disturbance during construction will interfere with his work as an author. The proposed development would also interfere with the privacy of his apartment which has a "22 foot" balcony and mainly glass façade. The views from this balcony would be obscured.

### 6.5.2. The observation from Tony Flaherty can be summarised as follows;

The observer has lived in an apartment at Smithfield Village since 1998. The proposed development would drastically impact the view and light available at this

apartment. The light study submitted with the application downplays the likely real impact in this regard. His living areas and balconies would be totally overlooked. The observer works from home and would have to move during construction. A commercial building on this scale in the middle of what is now a residential area would be a retrograde step. A commercial development of this height and scale is not appropriate.

## **6.6. Further Responses**

- 6.6.1. Smithfield Village (Management) Ltd submitted a response to the appeal from An Taisce which supported it, with particular reference to the impact on St. Michan's Church, the retention of trees and the protection of residential amenity.

## 7.0 Assessment

7.1. I consider the key issues in determining this appeal are as follows:

- Urban design and the scale of the proposed development
- The proposed uses
- Built heritage
- Impact on residential amenity
- Impact on movement
- Screening for Appropriate Assessment and EIA

7.2. Urban design and the scale of the proposed development

The site is beside Smithfield, a particularly large civic space in central Dublin which is over 300m long and 40m wide. Providing an appropriate level of enclosure and animation for that space requires a proportionate volume of activity and building frontage, which the current state of the site does not provide. The site is mostly occupied by surface car parking. Only a relatively small number of workers could be accommodated in the office block upon it. The trees upon the site mitigate the negative visual impact of the surface car parking there. However they do not in themselves a significant amenity for the area and they do not form part of a planned or coherent green route. Their retention would not justify a failure to provide a consistent building line along the east side of Smithfield. Despite the extensive investment in the public realm and the provision of public transport, and the partial redevelopment of sites around Smithfield, its attractiveness as an urban space is diminished by the predominance of horizontal vistas without much vertical contrast or perceived use by people even during the day. I would therefore agree with the

applicant's description of the site as an underutilised brownfield site in a regeneration area.

The proposed development would reinstate a building line on the east side of Smithfield. The size and character of the civic space justify the proposed height of the frontage onto Smithfield which would be in keeping with the height of the newer buildings to its south and east, including the Phoenix Court building, and those on the western side of Smithfield. An insistence that the heights of the smaller buildings to the north of the site would be matched by future development around Smithfield would result in the space remaining bleaker and emptier than it should be. The detailed design of the elevations provides a suitable level of visual interest of vertical forms.

The scale of the elevation onto Phoenix Street is also appropriate given its width and role and a transport corridor carrying the Luas red line, as well as by the height of the Phoenix Court building on the other side of the street. It is therefore considered that the proposed development achieves a high standard of urban design and it would be likely to significantly improve the quality of the built environment.

Bow Street is relatively narrow, but it is already bounded by taller buildings to the north and south of the site. The proposed development would not significantly alter its character in this regard. Rather it would tend to improve the continuity and coherence of its streetscape, especially as the cut-stone wall along the street are being retained in the development, leaving the vacant site on Hammond Lane as the last significant gap in the street's urban fabric. The proposed development would alter the character of New Church Street to the north of the site, but the resulting change would be appropriate to a central urban area.

The scale of the proposed development would therefore be appropriate to its context and location. It achieves a good standard of urban design and would make a strong positive contribution to the character of the area. This conclusion has had regard to the nature and scale of the proposed development, the submissions from the parties,



and the observations made during the site inspection. It does not rely on the contextual elevation drawings submitted by the applicant.

The proposed development complies with the standards set out in the development plan with regard to the size of developments. Subject to the omission by condition of solar panels or any other plant or structures at roof level, it would constitute low rise development for the inner city. The plot ratios guidance of 2.5-3.0 for the Z5 zone in section 16.5 of the development plan are stated to indicative rather than prescriptive, and the development is right beside a major public transport corridor and would provide an appropriate mix of uses for the area which is in need of urban renewal. The proposed plot ratio of 4.63 would therefore be in keeping with the proper planning and sustainable development of the area. The submissions from the parties discussed these issues in relation to the provisions of the previous development plan. However the applicable provisions of the current plan do not differ materially with respect to the development and a further request for submissions from the parties would not elucidate the matter to any significant degree and would not be required in the interests of justice.

### 7.3. The proposed uses

The proposed development is largely an office scheme. Such a use is permissible in principle under the Z5 zoning objective that applies to the site. The proposed offices would introduce a large number of people to the area during the day, which would make Smithfield a more interesting and comfortable place to linger. The development would provide active ground floor retail uses that would also assist in this regard, as would the locations of entrances to the office schemes on Smithfield, Phoenix Street and Bow Street. A significant presence of workers tends to provide custom for restaurants, bars and cafes that would further enliven the area, both during the day and early evening, in a manner that would be compatible with residential use in the vicinity. Several recent large scale developments in the area

have provided large volumes of office accommodation. However the area retains a large proportion of residential use and it is not likely that the proposed development would undermine the mixed use character of the area or lead to an undue predominance of offices. The nature and volume of the proposed uses would therefore make a positive contribution to the area, and they would be in keeping with the applicable zoning objective under the city development plan.

#### 7.4. Built heritage

The site does not contain a protected structure, nor is it within an Architectural Conservation Area or one of the non-statutory conservation areas designated in the city development plan. Nevertheless it is located in an historic urban area near the protected structure of St Michan's Church and immediately beside the non-statutory conservation area at Smithfield. A proper respect for the heritage of the area would therefore be required before any proposed development upon it was deemed to be acceptable. The proposed conservation of the stone walls of the former warehouse and the reinstatement of the building line along the east side of Smithfield are important positive aspects of the development in this regard. The proposed development would provide a large modern building in close proximity to the church and graveyard at St Michan's. However the setting of that protected structure is already characterised by large modern buildings, as might be expected in the centre of a city, and the proposed development would not alter that setting in a way that had a significant impact on the character of the protected structure or its curtilage. Similarly, the context for significant views of the clock tower at St Paul's Church on Arran Quay is that of a central urban area. Even if the proposed development were to be visible in certain of those views, its impact on the setting of the church would not be significant compared to that which already effected by the Phoenix Court building that lies between the site and that church. It is therefore concluded that the proposed development would not have a negative impact on the historic character or built heritage of the area. Both the current and previous development plans

contained similar provisions that sought to protect the heritage of the area. As the proposed development would not injure that heritage, and would in fact make a positive contribution to the area's character, a further request for submissions from the parties would not elucidate this issue to any significant degree and would not be required in the interests of justice.

#### 7.5. Impact on residential amenity

The proposed development would introduce a large building less than 12m to the south of windows serving the apartments at Smithfield Village. It will undoubtedly impinge on the light available to those apartments and the outlook from them. The question at issue is whether this impact would justify refusing or altering the proposed development. I consider that it would not, and that the design of the proposal has taken reasonable account of the need to protect the amenities of the apartments to the north by the setback of the upper storeys. I would refer the board to the daylight and sunlight analysis submitted with the application. This analysis is based on a proper description of the existing situation and of the proposed development and uses an accepted approach set out in the UK's Building Research Establishment, which is cited in the city development plan and the method set out in BS 8206-2 from 2008. Its predictions are therefore considered reasonable and reliable. It illustrates a significant loss of the vertical sky component at the windows identified as G and J. There would also be loss of probable sunlight hours at all the windows, but not to a level below the minimum annual or winter hours recommended in the BRE document, save in the winter at window J. A secondary analysis indicates that the development would not reduce the average daylight factor within those rooms at G or J (or any of the others) to below the standard of 1.5% specified in BS 8206-2. The development would substantially diminish the open vistas that area available from the upper windows on the southern side of Smithfield Village, but it would not deprive any of the windows there of a reasonable outlook. The expanse of the views currently available are a result of the underutilization of the appeal site,

and it would not be in keeping with the proper planning and sustainable development of the area to insist on their retention. The application of a standard separation distance of 22m would not be appropriate for a central urban area. The proposed development would not give rise to an unacceptable degree of overlooking or intrusion into the apartments opposite. Having regard to the foregoing, I would advise the board that the proposed development would not seriously injure the amenities of the apartments or Smithfield Village or those of other properties in the vicinity.

#### 7.6. Impact on movement

The location of the proposed development in the city centre means that the large majority of trips which its use would generate would be by public transport, foot or bicycle, with only limited use by private car. The restriction of the number car parking spaces to 47 is in line with the maximum standards set out in the development plan and would ensure the use of travel modes that did not exacerbate congestion in the roads in the area. The provision of offices at this location would also reduce the demand for similar accommodation at other locations that were not as accessible by modes of transport other than the private car. It therefore represents a sustainable pattern of development that would reduce traffic congestion across the city. The completed development would involve the removal of the existing boundary wall at the Luas stop and the provision of more space for along the footpath there. This would have a positive impact on the pedestrian environment and access to the Luas. The detailed concerns of the TII regarding the impact of construction on the operation of the tram line and the need for the proper protection and relocation of its ancillary equipment is noted, as is the method statement which the application submitted in response to them. It would be appropriate to address such matters of technical detail which do not impinge on the principle or form of the proposed development by a condition attached to a permission. In these circumstances it is concluded that the proposed development would have a generally

positive impact with regard to travel patterns and transport facilities. It would not endanger public safety in this regard and would not tend to cause traffic congestion.

#### 7.7. Screening for Appropriate Assessment and EIA

The proposed development would not be in or adjacent to any Natura 2000 site. It would drain to the public sewerage network of the city. It would not be likely to have any significant effects on any such European site, either individually or in combination with other plans or projects. A stage 2 appropriate assessment is therefore not required. The proposed would involve the redevelopment of a site of 0.44ha within a central business district. This is much less than the threshold of 2ha for such redevelopment set at part 2.10(b)(iv) of schedule 5 to the planning regulations. Having regard to this fact, and the criteria set out at schedule 7, it is evident that the proposed development would not be likely to have significant effects on the environment that would require an environmental impact assessment.

#### 8.0 **Recommendation**

8.1. I recommend that planning permission should be granted, subject to conditions, refused for the reasons and considerations as set out below.

#### 9.0 **Reasons and Considerations**

The site 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 keeping 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). It would achieve a reasonable standard of architectural design and contains measures to protect the architectural heritage of the area including the retention cut limestone wall along Bow Street and Church Street and the re-establishment of a building line along the east side of Smithfield. The setback of the upper floors along New Church Street 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, subject to compliance with technical requirements that may be specified pursuant to a condition. Therefore, having regard to the foregoing and subject to compliance with the conditions set out below, the proposed development would therefore make a positive contribution to the character and amenities of the area, and would be in keeping with its proper planning and sustainable development.

## 10.0 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 24<sup>th</sup> 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 and agreed in writing with the planning authority prior to the 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 have constituted exempted development.

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

5. Prior to the 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 unduly interfere with the operation of the Luas, or with pedestrian and 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 only out between the hours of 0700 to 1900 Mondays to Fridays, between 08.00 to 14.00 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. . The following requirements of the Air Quality Monitoring and Noise Control Unit of Dublin City Council shall be complied with:

. a) Prior to the site preparatory works and construction phase a residential notification procedure shall be drafted by the applicant for the prior approval of Dublin City Council. This procedure must fully inform all occupiers of sensitive premises in the area how and to what extent the works will impact them.

. b) All disposal and removal of the felled trees, such as the chipping of them, must be conducted during normal working hours. The same observations can be applied to the installation of the Hoarding on site. The information contained within the submission is for 5 nights out of hours working from 2-4 am. The installation of hoarding on site at these times need only be for that portion of the site that adjoins the Luas line. Consideration must be given to ensure that out of hours works are not conducted on consecutive nights as far as possible.

. c) The applicant shall comply with the provisions of BS5228-1:2009, in particular noise shall be assessed in accordance with annex, section E.3.2. and vibration in accordance with Annex B with reference to table B1.

. d) Continuous noise and vibration monitoring shall be undertaken at all of the perimeters of the site as indicated in the Proposed Construction Methodology III Statement submitted with this application. The results of this monitoring shall be available to Dublin City Council on request.

. e) Dust and dust monitoring of the site must be checked and controlled in accordance with the Proposed Construction Methodology III Statement submitted with this application. The results of this monitoring shall be

available to Dublin City Council on request.

- . f) No deliveries of materials, plant or machinery shall take place before 7.00am in the morning or after 6pm in the evening.
- . g) Strict measures must be put in place to ensure that no vehicles are allowed to queue to enter or exit the site.
- . h) Before the use thereby permitted commences, a scheme shall be submitted to and approved in writing, by the planning authority for the effective control of fumes and odours from the restaurant premises. The schemes shall be implemented before the use commences and thereafter permanently maintained. No emissions, including odours, from the activities carried on at the site shall result in an impairment of, or an interference with amenities or the environment beyond the site boundary or any other legitimate uses of the environment beyond the site boundary.
- . i) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142 2014. Method for rating industrial noise affecting mixed residential and industrial areas.
- . j) There shall be no amplified music in the external areas of the development.
- . **Reason:** In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

9. . During the construction and demolition phases, the proposed development shall comply with British Standard 5228 " Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control." Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.

. Before the use hereby permitted commences, a scheme shall be submitted to and approved in writing, by the planning authority for the effective control of noise from the premises. The scheme shall be implemented before the use commences and thereafter permanently maintained.

**Reason:** In order to ensure a satisfactory standard of development, in the interests of residential amenity.

10. . 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 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 protect visual amenity.

11. 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 interests of sustainable waste management.

12. 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.

13. 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. 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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

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. Stephen J. O'Sullivan

. Planning Inspector

24<sup>th</sup> October 2016