



An
Bord
Pleanála

Inspector's Report PL29N.247623

Development

Amendments to a permitted development under reg.ref. 3045/09, ABP ref. PL29N.234398 comprising omission of mezzanine level and providing a 6 storey building and associated site works.

Location

1-6 Haymarket and 56-58 Smithfield, Dublin 7.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

2971/16

Applicant(s)

Linders of Smithfield

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third-v-Grant

Appellant(s).

An Taisce

Date of Site Inspection

08th March 2017

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.1587 hectares, is located in the city centre at the south west corner of Smithfield at 1-6 Haymarket and 56 - 58 Smithfield in Dublin 7. This plot has been assembled from various different land holdings and it comprises the entire block enclosed by Smithfield to the east, Haymarket to the north, Arran Quay Terrace to the south and Burgess Lane to the west. The former three streets have a commercial history and an established pattern of commercial uses at ground floor level with large public spaces in the vicinity. Burgess Lane is quite distinct in so far as adjoins residential property and is narrow and is primarily used for access to a small yard and for parking. The other three frontages of the site adjoin spacious public areas which have significant potential to become quality urban spaces on completion of the second phase of the Smithfield urban renewal works. The LUAS line separates the site from the lower part of Smithfield at which location the buildings are lower and of finer grain. Around Smithfield there are a variety of building forms and styles including the low scaled historic buildings at the north and the redeveloped west and eastern sides which are quite different in height and mass but share a contemporary design approach. The subject site and the plot to the south effectively comprise the remaining block which would complete the renewal of the western side of the square. The eastern side still contains the undeveloped Distiller's site which is used as a surface car park. Phoenix House at that side of the square is a recently constructed office building which is shown on the application drawings. A new building to the south is mainly of glass while adjacent buildings contain a large proportion of solid elements.
- 1.2. The buildings which are proposed to be demolished include a six storey commercial building which is primarily in office use. The two upper floors of this building are set back from the main façade. This building faces onto two of the main thoroughfares, Arran Quay Terrace and Smithfield. A single -storey structure at 57 Smithfield is of unknown use as it was closed at the time of inspection. The other building of note is at 1-6 Haymarket is a three-storey structure with various commercial uses including shops and a garage. The adjacent public realm has not to date been subject of

public investment but it has recently been announced that Phase II of the Smithfield upgrade is to be undertaken.

2.0 Proposed Development

2.1. Permission is sought for amendment of previously permitted development under ref no 3045/09 (ABP ref. PL29N.234398), as subsequently extended in duration under ref no.; 3045/09/x1. The proposed amendments to the previously permitted development provides for the omission of the permitted ground floor mezzanine (705sqm), the incorporation of the previously permitted penthouse level into the main building envelope by increasing the previously permitted 5-storey shoulder height of the building from 27.09 AOD to provide a uniform 6-storey building height of 28.68m AOD resulting in an increased 5th floor level floorplate from 915sqm to 1,420sqm (GFA); together with external alterations to provide a completely revised design/facade treatment to the permitted northern, southern, eastern and western elevations. The overall permitted building height is reduced from 31.05m AOD (top of permitted penthouse level) to a uniform 28.68m AOD 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 11,560sqm to 11,360sqm (including basement levels). Reduction of car parking spaces at Basement Level -1 from 23 spaces to 20 together with a reduction of bicycle storage at Basement Level -2 from 115 spaces to 75 spaces.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 22 conditions.

3.2. Local Authority and External reports

3.2.1. Drainage Division (28/06/16): No objection.

3.2.2. City Archaeologist (28/06/16): Conditions recommended.

- 3.2.3. An Taisce (29/06/16): The proposal to remove the setback on the top level is contrary to the Boards decision under PL29N.234398.
- 3.2.4. Waste Management Division (29/06/16): Conditions in the event of a permission.
- 3.2.5. TII (30/06/16): Concern is raised regarding the impact of a corner column on visibility relative to the operation of the Luas. A demolition methodology is required due to the proximity to the Luas line.
- 3.2.6. Roads & Traffic Planning (12/07/16):
- 3.2.7. Planning Report (19/07/16): Further information is required including the information sought by the TII.
- 3.2.8. TII (25/10/16): The response to further information is satisfactory subject to a number of conditions regarding construction and demolition.
- 3.2.9. Planning Report (30/09/16): The proposal was deemed acceptable in the context of land use zoning with the principle of the proposed development established by the previous grant on site. The design, scale and form of development was considered acceptable in regards to visual and adjoining amenities. A grant of permission was recommended subject to the conditions outlined above.

4.0 Planning History

- 4.1 PL29N.234398: Permission granted for demolition of building and construction of seven-storey mixed use building.
- 4.2 PL29N.226444: Permission refused for demolition of existing buildings and construction of 9 storey mixed use building.

1. The site of the proposed development is located in a prominent position, in an area where the planning authority's zoning objective, as set out in the Dublin City Development Plan 2005-2011, is to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design, character and dignity. The site adjoins and overlooks Smithfield, an open space of considerable historic and civic importance to the city and which itself forms part of a designated conservation area in the current development plan for the area and

where it is the policy of the planning authority that new buildings should complement the character of the existing architecture in design, materials and scale.

Having regard to the existing and permitted scale and pattern of development on Smithfield, it is considered that the proposed development, by reason of its scale and height, would depart significantly from the established character of the existing architecture in the vicinity, would be visually obtrusive and would not strengthen or protect the existing civic design character of Smithfield. The proposed development would, therefore, conflict with the provisions of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

PL29N.232346: Permission granted for a nine-storey office building at Arran Quay Terrace to the south of the site.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant Development Plan is the Dublin City Development Plan 2011-2017. The site is zoned Objective Z5, with a stated objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'.

5.1.2 The site is located in an area designated as a Conservation Area.

5.1.3 The site is within the Zone of Archaeological Constraint for the Recorded Monument DU018-020. The site is also located within the Zone of Archaeological Interest under the City Development Plan.

6.0 The Appeal

6.1 Grounds of appeal

6.1.1 A third party appeal has been lodged by An Taisce. The grounds of appeal are as follows...

- The proposal removes a setback level at on top floor permitted under PL29N.234398 that was subject to a condition requiring it. This setback level should be maintained.
- It is noted that it is important that the proposal relates to existing structures in the vicinity and that the setback of the top level is an important device to help integrate the proposal at a sensitive location such as this.
- Given the location of the proposal and adjoining properties it is considered that the setback at the top level is necessary to protect adjoining amenities and reduce the impact of overlooking and overshadowing. The setback is also important in providing a gradual transition in height from north to south.
- The appellant noted concerns regarding impact of a six-storey elevation (without the top floor setback) noting that that general character of existing structures are for five-storeys in the vicinity.

6.2 Responses

6.2.1 Response by Declan Brassil & Company Ltd on behalf of the applicant Linders of Smithfield Ltd.

- The design of the proposed development has had regard to the Boards decision and the Inspector's assessment in regards to PL29N.234398. The proposal provides a reduction in height over the previously permitted structure on site.

- The proposal provides an appropriate transition in height from Smithfield Market to the north to the development of more mixed character to the south. It is noted that there is an increased parapet level of 1.59m over a limited area, which in context of the site location would not have a significant or perceptible impact in terms of transition from the taller buildings to the north of the site and those to the south of the site. It is noted the change in parapet height is minor with no significant impact on the relationship with buildings on the south side of the Luas line from that previously permitted.
- It is noted that proposal has no significant or adverse visual impact when viewed from the Liffey Conservation Area and that it has limited visibility from the quays.
- The amendments to the proposal would represent an improvement over the permitted structure and would enhance the visual amenities of the area.
- The appellant noted concerns regarding impact of a six-storey elevation (without the top floor setback) noting that the general character of existing structures are for five-storeys in the vicinity.

7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Design, scale and visual impact.

7.2 Principle of the proposed development:

7.2.1 The proposal is described as amendments to a permitted development under PL29N.234398. Under PL29N.234398 permission was granted for a six-storey office building with a condition applied (no. 2(a)) requiring the fifth floor to be recessed relative to the lower floors. The current proposal is for a six-storey office building with

the same footprint. The internal layout is similar apart from the removal of a mezzanine level in the proposal and the top floor of the proposed development not being recessed as required under condition no. 2. In addition the overall ridge height of the proposed development is lower than the permitted development by 1.37m. The external elevations of the proposed development are significantly changed with it featuring an external finish of brick, aluminium window frames and vertical aluminium shades.

7.2.2 Despite the amendments the proposal is similar nature/use, footprint, plot ratio and site coverage to the permitted development under ref no. PL29N.234398. The proposal is consistent with zoning policy under the City Development Plan and the overall principle of the proposed development is satisfactory.

7.3 Design, scale and visual impact:

7.3.1 The main issue concerning the proposal relates to its overall visual impact at this location and such is the main issue raised in the appeal submission. The appeal submission notes that the loss of the recessed top floor would be contrary to condition no. 2(a) under PL29N.234398, would be out of character with existing structures and detrimental to the visual amenities of the area. In permitting the development under ref no. PL29N.234398, condition no. 2(a) required that “the proposed development shall be six storeys in height only, including ground floor. The penthouse storey shall be retained and an intermediate floor omitted”. The applicant has applied for amendments to the permitted development and such should be assessed on their merits with the existence of condition 2 not a reason to not give such amendments any consideration. In this regard the proposed amendments and the alterations to the external appearance of the proposed structure are to be assessed on their merits and overall visual impact at this location.

7.3.2 As noted above the proposal is significantly changed in its external appearance with new elevational treatment, no setback at the fifth floor level and overall reduction in height over the permitted development. The parapet level of the proposal is not significantly higher than the parapet level of the permitted structure with the overall ridge height of the structure reduced and the same number of floors

facilitated in lower ridge height (omission of the mezzanine level). I would consider that the proposal would successfully integrate into this location and that the overall height of the proposed development provides for a gradual transition between existing structures to the north along Smithfield to the existing structures to the south towards the quays. I would refer the Board to the design statement submitted with the application, which shows the proposal in the context of the adjoining structures (eastern elevations) along Smithfield and on the opposite side of the Luas Line. In addition the photomontages ably demonstrate that the overall scale and visual impact of the proposed development would not be out of scale or character at this location.

7.3.3 The site is located in a conservation area and is close to the conservation area along the quays. As noted above the overall design and scale of the structure would not be out of character at this location and the architectural character of the structure although contemporary of nature has regard to existing external finishes evident in the area (brick finishes). The photomontages submitted demonstrate that views of the structure from surrounding area would be satisfactory. In regards to views from the River Liffey and the quays, the visibility of the structure is minimal and partial due to its overall scale relative to existing structures. I would consider that amendments to the external appearance would represent an improvement over the permitted elevations and provide for a contemporary structure of good architectural character that would have a positive impact at this location. In relation to the issue of maintaining the setback of the top level of structures at this location, I would acknowledge that there are a significant level of structures exhibiting such, however there are some structures that don't including a recent construction south of the appeal site and on the opposite side of the Luas Line. Notwithstanding such, the proposal viewed on its merits is acceptable in regards to over visual impact and should be permitted as proposed.

7.3.4 There is some suggestion in the appeal that the proposal would impact adversely on adjoining amenities through overlooking and overshadowing. The structure proposed is similar in footprint, nature and orientation as previously permitted on site. The

proposed structure's parapet level is marginally higher than the parapet level of the permitted structure on site but lower in overall ridge height (no penthouse level). I am satisfied that the proposal would have no impact over and above that of the permitted structure on site in terms of overshadowing or overlooking of adjoining structures and would constitute a reasonable standard of development.

7.4 Other Issues:

7.4.1 There were some issues raised by TII including a requirement for an assessment of visibility in regards to the Luas Line of a column at the south east corner of the building. The TII also requested information in regards to demolition and construction methodology due to its proximity to the Luas Line. The TII have confirmed that the design of the proposal does not require alteration in regards to the south east corner and have indicated satisfaction with the information submitted in regards to demolition and construction subject to a number of conditions.

7.4.2 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

9.1 Having regard to the provisions of the Dublin City Development Plan, 2011-2017, the zoning of the 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, the setting of the conservation areas or the amenities of property in the vicinity. The

proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be 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 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 the planning authority for written agreement. 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 hours of working, and noise management measures.

(ii) The developer shall liaise with the 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. 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.

5. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, 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: In the interest of visual amenity.

6. 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.

7. The car parking facilities hereby permitted, shall be reserved solely to serve the proposed development.

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

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. 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.

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 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.

11. 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.

12. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of upgrading of the public realm, including footpaths, paving and street furniture, immediately adjacent to the site including paving of Burgess Lane. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Colin McBride
Planning Inspector

08th March
2017