

An  
Bord  
Pleanála

**Board Order**  
**ABP-313215-22**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3051/22**

**Appeal** by Philip O'Callaghan and others care of 4 Fitzwilliam Street Upper, Dublin against the decision made on the 9<sup>th</sup> day of March, 2022 by Dublin City Council to grant subject to conditions a permission to Carsara Inns Limited care of Delahunty and Hartley Architects of 122 Merrion Road, Ballsbridge, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Amendments to previously granted planning application reference number 3327/20 comprising: addition of set back penthouse level/fifth storey containing one number two-bed apartment (81.7 square metres) to four-storey building, as approved under reference number 3327/20, internal modifications to common stairwell at third floor and alterations to elevations to accommodate the re-design and addition of fifth storey, all at Numbers 34, 35-36 and 37 Pembroke Street Lower, 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.**

## Reasons and Considerations

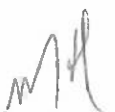
In arriving at its decision, the Board considered the provision of the Dublin City Development Plan, 2022 - 2028, including Chapter 11, Built Heritage and Archaeology, Policy BHA7. The Board disagreed with the Inspector that the proposed fourth floor would be visually obtrusive and that it would detract from the proportionate and sympathetic design of the previously permitted four-story building within the context of the local streetscape. The Board shared the opinion of the planning authority that the additional floor was acceptable and considered that the design of the additional floor would be sympathetic to its context, sensitively designed and appropriate in terms of scale, height, and mass. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the proposed development would be in accordance with the Dublin City Development Plan 2022 – 2028 and would 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 terms and conditions of the permission for the original development, which was issued under planning register reference number 3327/20 shall be fully complied with, except where modified by this permission.

**Reason:** To provide for an acceptable standard of development.

3. Prior to commencement of construction of the external elements of the scheme, details of the materials, colours and textures of all external finishes, including samples, shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interests of orderly development and the visual amenities of the area.

4. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.

**Reason:** To safeguard the visual amenities of the area in general.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001 – 2010, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags or other projecting element shall be displayed or erected on the building or within the curtilage or attached to the glazing without the prior grant of planning permission.

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

6. The developer shall comply with the following requirements of Transport Infrastructure Ireland:

The applicant shall comply with the Code of Engineering Practice for works on, near or adjacent to the Luas Light Rail system. This code is available at <https://www.luas.ie/work-safety-permits.html>.

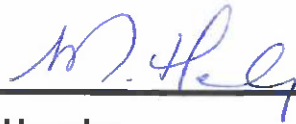
**Reason:** To ensure there is no adverse impact on Luas operations and safety concerns.

7. 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.

8. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme 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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**Mary Henchy**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**



Dated this *7* day of *July* 2023.