



An
Bord
Pleanála

Board Order ABP-318409-23

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 4340/23

Appeal by Highgate Design Limited care of Stephen Little and Associates of 26/27 Upper Pembroke Street, Dublin against the decision made on the 11th day of October 2023, by Dublin City Council, to refuse permission for the proposed development.

Proposed Development: The development will consist of a change of use from office to residential and comprise the sub-division of the original four-storey over basement and two storey rear return, including a modern extension, into 11 new residential units, including two one-bed units (measuring 47 square metres and 52 square metres) and nine studio units with an average area of 29 square metres. The proposed works extend to an overall site area of circa 210 square metres and shall comprise the following:

- (1) removal of non-original elements to the rear. This includes (i) the modern L-shaped basement structure at basement level; (ii) the modern plan room structure at ground floor level and brick flue enclosure to above eaves level; (iii) the modern steel deck which extends across the rear facade of number 16 at first, second and third floor level; (iv) the toilet block constructed on the roof of the original two-storey return structure; (v) the two number projecting bay windows to the north and east elevations of the original two-storey return; (vi) the single-storey flat roofed modern

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extension to the rear at the former garden level; (2) new construction works to the former garden level, comprising a new 40 square metres single-storey structure at basement level with a green roof (to provide a one-bed apartment unit) to replace a non-original 50 square metres office structure constructed at ground floor level; (3) new construction works to the original two-storey return at the rear, comprising a 3.6 square metres semi-circular extension to the original gable to include a new stair, the reinstatement of the original mansard type roof structure (following the removal of the modern toilet block) and new window opening to the north façade; (4) general external upgrade works and construction repairs to the building envelope to include (i) replacing the finishes to the historic double pitch roof and valley gutter, (ii) installing a new automatic openable roof vent over the stair, (iii) replacement of existing front UPVC rainwater goods to the front elevation; (iv) replacement of the non-original external steel access stair to front lightwell; (v) cleaning of all original brickwork; (vi) repair of the original windows; and, (vii) new services/plant to replace existing in the existing cellar/front lightwell; (5) various internal upgrade works and conservation repairs; incorporating works required to achieve compliance with current Building Regulations, including: (i) removing the non-original lift; (ii) removing the non-original steel stair from ground floor level to basement, (iii) damp proofing works to the basement; (iv) internal dry lining works to the basement; (v) upgrade of existing timber floors to meet fire and acoustic performance requirements; (vi) new concrete floor construction to the basement; and, (vii) new electrical and mechanical services installations to serve the residential units; (viii) historic plasterwork repairs, all at 16 Herbert Street (Protected Structure), 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

The Board having had regard to;

- (a) the policies and objectives of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024;
- (b) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022;
- (c) the Architectural Heritage Protection Guidelines for Planning Authorities (2011);
- (d) the Dublin City Development Plan 2022-2028;
- (e) the Protected Structure status of the property as noted on the Record of Protected Structures contained within the Dublin City Development Plan 2022-2028;
- (f) the site's location in Herbert Street and part of a terrace of similarly designated protected structures within a Zoning Objective Z8 area as set out in the Dublin City Development Plan 2022-2028 with Objective to protect the existing architectural and civic design character and to allow only for limited expansion consistent with the conservation objective;
- (g) the permissible nature of a residential use in a Z8 zoned area as set out in the Dublin City Development Plan 2022-2028 and encouragement in the Plan to seek the sensitive re-establishment of residential uses in such areas; and
- (h) the current vacant status of the property and its previous use as offices which has adversely impacted on its internal and external character and appearance,

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considered that, subject to compliance with the conditions set out below, the proposed development would provide an acceptable standard of residential accommodation and amenity that would not materially contravene the Z8 zoning Objective for the area, would not detract from the special form, integrity, character or appearance of the protected structure, its setting or the character or appearance of the terrace of which it forms part, or the conservation area in which it is situated and would not otherwise detract from the amenities of the area or of property in the vicinity. 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 as amended by the further plans and particulars submitted with the grounds of appeal on the 7th day of November 2023 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 revised and additional plans and particulars shall be submitted to, and agreed in writing with, the planning authority incorporating the following amendments and additions to the proposed development:
 - (a) The omission of Basement level Unit three (one-bed unit) and the resultant area to rear of building shall be utilised and laid out as communal outdoor open space.

- (b) The omission of Basement level Unit numbers one and two (Studio units) and their replacement with a single one-bed dual aspect unit.
- (c) Details of the communal outdoor open space required by Condition 2(a) with provision of associated amenities and facilities including cycle parking facilities.
- (d) Detailed methodologies, specifications and materials for implementation of the following works.
 - (i) Proposed works to roof including any new structural support works and insulation.
 - (ii) Proposed works for remediation of damp and moisture ingress to the basement level.
 - (iii) Proposed works to repair and reinstate damaged and removed decorative plasterwork.
 - (iv) Proposed works to upgrade floors for purposes of fire rating, acoustic insulation and services installation including the lifting and reinstatement of floorboards.
 - (v) Proposed works to repair and reinstate external facades including where demolition and repointing and repairs to brickwork is proposed.
 - (vi) Proposed works to repair and reinstate windows and glazing including reinstatement of shutter boxes and provision of protective guard rails.

Reason: In order to provide an acceptable standard of residential amenity, in the interest of the amenities of occupiers of the proposed development and to protect the integrity, character and appearance and setting of the protected structure and area.

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3. For the avoidance of doubt the permission hereby granted allows for eight number residential units in total only consisting of the following accommodation:

- Basement level one number one-bed unit.
- Ground floor one number one-bed unit and one number studio unit.
- First-floor one number one-bed unit.
- Second floor two number studio units.
- Third floor two number studio units.

Reason: In the interest of clarity.

4. Drainage arrangements, including the attenuation and 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 surface water management.

5. Details of the internal and external finishes and materials of the proposed development hereby permitted shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to protect the integrity, character and appearance of the protected structure.

6. All works to the Protected Structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

Reason: To secure the authentic preservation of this Protected Structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

An amendment to this
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Dated 7/10/25

Signed: Secretary 

7. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.
- (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

8. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no form of advertising, posters, boards or other form of advertising (illuminated or otherwise) shall be displayed on the building or within the site subject of this permission unless they have been the subject of a separate application for permission to the planning authority.

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Dated 4/10/25

 

Reason: To enable the planning authority to assess the impacts of any such advertising on the character and appearance of the site, protected structure and the amenities of the area.

9. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

10. Prior to commencement of development details of a Construction Management Plan and a Demolition Management Plan shall be submitted to, and agreed in writing by, the planning authority. These plans shall include provision of details relating to traffic management and parking of construction and construction workers vehicles, plant and materials compounds, noise and dust management and control measures, access provisions for plant, labour and materials, off-site disposal of waste and measures proposed to keep adjacent roads clean of dirt, dust and debris. The development shall thereafter only be carried out in accordance with the details contained in the agreed plans.

Reason: In the interest of orderly development and to protect the amenities of the area.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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Board Order has been made

Dated 1/10/24

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12. Any landscaping incorporated pursuant to the provision of the communal outdoor open space required by condition 2(a) and (c) above shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open space and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

14. (a) 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, for each apartment unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.



Martina Hennessy

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



Dated this 1st day of August 2024

An amendment to this
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Dated 4/10/24

Signed: **Secretary**

