



Planning and Development Act 2000, as amended

Planning Authority: Dublin City Council

Planning Register Reference Number: 4899/23

Appeal by Stadia Capital Limited care of O'Shaughnessy and Associates of 49 Upper Mount Street, Dublin and by Esprit Investments Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 2nd day of February, 2024 by Dublin City Council in relation to an application by Esprit Investments Limited for the demolition of the existing buildings at numbers 38-43 James's Place East. Construction of a part four, part five, part six, and part seven-storey hotel building over basement level on the site to the rear of numbers 37-43 Mount Street Upper fronting onto James's Place East. Change of use of numbers 38, 39 and 40 Mount Street Upper from office to hotel use and associated changes to layout to accommodate the change of use. The hotel will provide for a total of 300 number guest rooms and will have an overall floor area of circa 11,550 square metres within the new build development, and 1,540 square metres within numbers 38, 39 and 40 Mount Street Upper. Provision of a glazed link and bridge from the rear of numbers 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level. Provision of two number platform lifts to the front of numbers 38 and 39 Mount Street Upper. Provision of a glazed link and bridge from the rear of numbers 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level. Provision of a multi-use school space (circa 180 square metres) at ground floor level within the hotel building fronting James's Place East. Provision of an arts/cultural

space (circa 130 square metres) at lower ground floor level within number 38 Mount Street Upper. Change of use of numbers 37 and 41 Mount Street Upper from office to residential to provide eight number one-bed apartment units and one number three-bed apartment unit and one number four-bed apartment unit. Conversion of the existing mews building at number 50 James's Place East (to the rear of number 50 Mount Street Upper) to a residential dwelling (two number bedrooms). Construction of a three-storey residential building to the rear of number 47 Mount Street Upper fronting onto James's Place East to provide for a total of two number two-bedroom apartment units. Construction of a three-storey residential building located between the rear of number 50 Mount Street Upper and the rear of number 50 James's Place East to provide for a total of one number studio unit and two number two-bedroom apartment units. Provision of a park within the grounds of numbers 33-34 Mount Street Upper. Provision of bicycle spaces to serve the proposed development and all ancillary landscaping, boundary treatments, associated infrastructure, and site development works to support the development, all on a site bounded by Mount Street Upper to the north-east, James's Place East to the south-west and Herbert Street to the south-east (protected structures) (which decision was to grant subject to conditions permission for change of use of numbers 37 and 41 Mount Street Upper from office to residential to provide eight number one-bed apartment units and one number three-bed apartment unit and one number four-bed apartment unit, conversion of the existing mews building at number 50 James's Place East (to the rear of number 50 Mount Street Upper) to a residential dwelling (two number bedrooms), construction of a three-storey residential building to the rear of number 47 Mount Street Upper fronting onto James's Place East to provide for a total of two number two-bedroom apartment units, construction of a three-storey residential building located between the rear of number 50 Mount Street Upper and the rear of number 50 James's Place East to provide for a total of one number studio unit and two number two-bedroom apartment units, provision of a park within the grounds of numbers 33-34 Mount Street Upper, provision of bicycle spaces to serve the proposed development and all ancillary landscaping, boundary treatments, associated infrastructure, and site

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development works to support the development and to refuse permission for the demolition of the existing buildings at numbers 38-43 James's Place East, construction of a part four, part five, part six and part seven-storey hotel building over basement level on the site to the rear of numbers 37-43 Mount Street Upper fronting onto James's Place East, change of use of numbers 38, 39 and 40 Mount Street Upper from office to hotel use and associated changes to layout to accommodate the change of use, the hotel will provide for a total of 300 number guest rooms and will have an overall floor area of circa 11, 550 square metres within the new build development, and 1,540 square metres within numbers 38, 39 and 40 Mount Street Upper, provision of a glazed link and bridge from the rear of numbers 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level, provision of two number platform lifts to the front of numbers 38 and 39 Mount Street Upper, provision of a glazed link and bridge from the rear of numbers 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level, provision of a multi-use school space (circa 180 square metres) at ground floor level within the hotel building fronting James's Place East, and provision of an arts/cultural space (circa 130 square metres) at lower ground floor level within number 38 Mount Street Upper) in accordance with plans and particulars lodged with the said Council.

Decision

GRANT permission for change of use of numbers 37 and 41 Mount Street Upper from office to residential to provide eight number one-bed apartment units and one number three-bed apartment unit and one number four-bed apartment unit, conversion of the existing mews building at number 50 James's Place East (to the rear of number 50 Mount Street Upper) to a residential dwelling (two number bedrooms), construction of a three-storey residential building to the rear of number 47 Mount Street Upper fronting onto James's Place East to provide for a total of two number two-bedroom apartment units, construction of a

three-storey residential building located between the rear of number 50 Mount Street Upper and the rear of number 50 James's Place East to provide for a total of one number studio unit and two number two-bedroom apartment units, provision of a park within the grounds of numbers 33-34 Mount Street Upper, provision of bicycle spaces to serve the proposed development and all ancillary landscaping, boundary treatments, associated infrastructure, and site development works to support the development based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for the demolition of the existing buildings at numbers 38-43 James's Place East, construction of a part four, part five, part six, and part seven-storey hotel building over basement level on the site to the rear of numbers 37-43 Mount Street Upper fronting onto James's Place East, change of use of numbers 38, 39 and 40 Mount Street Upper from office to hotel use and associated changes to layout to accommodate the change of use, the hotel will provide for a total of 300 number guest rooms and will have an overall floor area of circa 11, 550 square metres within the new build development, and 1, 540 square metres within numbers 38, 39 and 40 Mount Street Upper, provision of a glazed link and bridge from the rear of numbers 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level, provision of two number platform lifts to the front of numbers 38 and 39 Mount Street Upper, provision of a glazed link and bridge from the rear of numbers 38 and 39 Mount Street Upper to the proposed hotel building at ground floor level, provision of a multi-use school space (circa 180 square metres) at ground floor level within the hotel building fronting James's Place East, and provision of an arts/cultural space (circa 130 square metres at lower ground floor level within number 38 Mount Street Upper for the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the Z8 Georgian Conservation Areas zoning ('to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective') and the Z10 Inner Suburban and Inner City Sustainable Mixed Use zoning ('to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses'), the policies and objectives set out in the Dublin City Development Plan 2022-2028, and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed residential development on Plots A, B, E and F would serve to positively enhance the area, would not significantly detract from the amenities of the area, would be generally acceptable on planning grounds, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 proposed 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, the developer shall submit the following to the planning authority for written agreement:
- (a) A revised site layout plan omitting the existing car parking to the rear of number 50 Mount Street Upper (Plot A). A revised landscaping plan for the same property which shows the inclusion of a new amenity space in place of the said car parking to be removed. Revised floor plans and elevations for the proposed new apartment building on Plot A which restricts vehicular access to the rear of the site and facilitates pedestrian access only.
 - (b) Two number car parking spaces at number 47 James's Place East (Plot B) shall be reserved for the proposed residential use on site. Proposals for same shall be agreed in writing with the planning authority.
 - (c) Revised floor plans and elevations for number 41 Mount Street Upper (Plot E) which omits apartment number 3. The lower ground floor and ground floor of number 41 shall be the same as that of number 37 Mount Street Upper as indicated on drawing number A2111-03-010 and A2111-03-011. A revised site layout drawing for number 41 Mount Street Upper (Plot E) showing the reinstatement of the rear site boundaries of this site.
 - (d) A revised site layout drawing for number 37 Mount Street Upper (Plot F) showing the reinstatement of the rear site boundaries of this site.

- (e) Cycle parking, bin storage and final access arrangements for Plots A, B, E and F shall be as per the requirements of the planning authority.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

- 3. Prior to commencement of development, the developer shall submit the following to the planning authority for written agreement:
 - (a) Proposals for a meaningful garden/external amenity space to serve numbers 37 and 41 Mount Street Upper, including 1:50 drawings of the historic boundary walls with clear indications of the repairs required and proposed and a conservation method statement for the repair of the historic news walls.
 - (b) Revised plans, sections and elevations providing full details in relation to service runs and the impact on historic fabric.
 - (c) Revised proposals for the front and rear fenestration arrangements for each of the proposed new apartment buildings on Plots A and B. The revised proposals shall suitably reduce the extent of glazing proposed as per the requirements of the planning authority.
 - (d) A Conservation Architect with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works on 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 fabric and the curtilage of the protected structures.

- (e) All works to the structure shall be carried out in accordance with best Conservation Practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair offsite shall be recorded prior to removal, catalogued and numbered to allow for authentic reinstatement.
- (f) All existing original features, in the vicinity of the works, shall be protected during the course of the refurbishment works.
- (g) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.
- (h) The architectural detailing and materials in the new works shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.

Reason: To ensure that the integrity of the protected structures is maintained and that all works are carried out in accordance with best conservation practice.

- 4. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recycling materials 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, in particular, recyclable materials, in the interest of protecting the environment.

5. Prior to commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

6. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interest of sustainable drainage.

7. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection and residential amenities.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

10. 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 prior to commencement of development. The fibrous cement cladding to the proposed units on Plots A and B shall be omitted and replaced with a high-quality material/metal to be agreed with the planning authority.

Reason: In the interest of visual amenity and to ensure an appropriate standard of development.

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11. Proposals for an estate name, apartment/house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment/house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas. .

12. Public lighting shall be provided in accordance with a scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include lighting along pedestrian routes through open spaces. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

13. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended, and any statutory provision replacing or amending them, no development falling within Classes 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the proposed house without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

14. 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 public open spaces, roads 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 the development in the interest of residential amenity.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement is not reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site.

17. 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 Coimisiún 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.

18. 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 Coimisiún 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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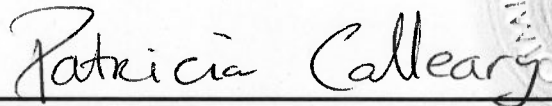
Reasons and Considerations (2)

It is considered that, by reason of its height, scale, massing, form and design, together with the proposed excavation of a large basement area to the rear of numbers 37, 38, 39, 40 and 41 Mount Street Upper, the proposed hotel development on Plots C and D would result in a visually obtrusive and overly dominant feature resulting in an abrupt transition within the historic terrace which would detract from the prevailing height, scale and architectural character of the traditional streetscape which incorporates important protected structures and forms part of a conservation area. The proposed development would also have a significantly adverse and injurious impact on the former mews lane at James's Lane East. The proposed hotel development would materially contravene Policies BHA2 (a), (b), (d), (e), (f), (g), (h), BHA9 and BHA14, and Section 14.6 (Transitional Zone Areas), Section 15.13.5.1 (Mews – Design and Layout) and Section 15.13.5.2 (Mews – Height, Scale and Massing) of the Dublin City Development Plan 2022-2028, would set an undesirable precedent for similar type development, and would, therefore, be contrary to the proper planning and sustainable development of the area.

The Commission did not attach the Inspector's recommended reason number two which centres around the point that the proposed development might seriously injure the amenities of the surrounding properties at Mount Street Upper and on James's Place East by reason of overbearance, overlooking, potential noise and disturbance and access to daylight and sunlight. The Commission did not share this view having regard to the city centre location, policy support for densification at all levels, and that none of the surrounding properties are in residential use. In relation to daylight and sunlight, the Daylight and Sunlight Assessment (including the addendum report that took into account the proposal to reduce the overall height and scale) confirms a high level of compliance with 100% meeting the minimum level and 93.3% meeting the target level. The classrooms on the school to the south will continue to be well lit throughout the year. It is considered that the proposed

development is acceptable in terms of daylight and overshadowing. A separation distance of 22 metres would be achieved between the proposed hotel and the rear elevation of the adjacent protected structures. Therefore, no proposal will not result in any undue overbearing.

In relation to the matter of overlooking, the Commission again took into account that none of the surrounding properties are in residential use and was satisfied that adequate separation distances are provided and the proposed roof gardens are set back which would ensure no direct overlooking of the school. The Commission was satisfied that the proposed development would not seriously injure the amenities of the surrounding properties at Mount Street Upper and on James's Place East.



Patricia Calleary

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this 13th day of October 2025.