

An
Coimisiún
Pleanála

Commission Order
PL-500596-DS

Planning and Development Act 2000, as amended

Planning Authority: Dublin City Council

Planning Register Reference Number: WEB2536/25

Appeal by Zermatt Property Limited and by others against the decision made on the 5th day of December, 2025 by Dublin City Council to grant subject to conditions a permission to Esprit Investments Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of two-storey office building (1,412 square metres) and single storey rear stores (215 square metres) at numbers 38-43 James Place East, shed (17 square metres) to the rear of number 40 Mount Street Upper and single storey rear extension (17 square metres) attached to the mews building at number 50 James Place East and the construction of a mixed-use development (12,994 square metres) across Plot A and Plot B as follows: Plot A: The construction of a part one/part five-storey mixed-use development (2,521 square metres). The mixed-use development (including the internal reconfiguration of the existing two-storey mews building at number 50 James Place East) will comprise 26 number apartments (two number studio units, 14 number one-bed units and 10 number two-bed units) and office accommodation (140 square metres). Plot B: The construction of a

part one/part five-storey (over basement) mixed-use development (10,473 square metres) comprising office accommodation (9,522 square metres) and a community space (358 square metres). The development will also comprise of the following at number 40 Mount Street Upper: the provision of a platform lift at the main entrance and associated alterations to the existing railings, elevational changes, including the replacement of a window on the rear elevation with double doors, and the provision of a bridge above the existing courtyard. The development will also include internal footpaths, bicycle parking, bin storage, hard and soft landscaping, balconies/terraces principally facing north and south, boundary treatments, including the demolition of part of the existing stone walls, lighting, plant, lift overruns, an ESB substation, green and blue roofs, PV panels, signage, and all other associated site and development works above and below ground, all on a 0.461-hectare landholding generally bounded by James Place East and Mount Street Upper, Dublin. The landholding comprises two number physically separated, yet proximate sites (referred to as Plot A and Plot B for the purposes of this planning application). Plot A (0.125 hectares), which incorporates number 50 James Place East (a protected structure), is generally bounded to the north by numbers 47-50 Mount Street Upper, to the south by James Place East, to the east by number 46 James Place East, and to the west by the car park to the rear of number 51 Mount Street Upper. Plot B (0.336 hectares), which incorporates number 40 Mount Street Upper (a protected structure), is generally bounded to the north by numbers 37-39 and 41-43 Mount Street Upper and Mount Street Upper, to the south by James Place East, to the east by number 30 Herbert Street and the car park to the rear of number 36 Mount Street Upper, and to the west by number 44 James Place East and number 44 Mount Street Upper.

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

Having regard to the 'Z10' - Inner Suburban and Inner City Sustainable Mixed Uses zoning on most of the site, and the Z8 Georgian Conservation Areas zoning on a portion of the site, the policies and objectives set out in the Dublin City Development Plan 2022-2028, and the pattern of development along James's Place East and the surrounding area, it is considered that, subject to compliance with the conditions set out below, the proposed development, which would intensify the use of this centrally located site and would contribute to the provision of residential units in the city centre, would be in accordance with the zoning objectives of the site, would represent an appropriate conservation response which would be in accordance with the development plan objectives in relation to the protection of built heritage, would positively enhance the area, and would not significantly detract from the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Commission noted the Inspector's recommendation in relation to reducing the height of Block A to four storeys. Having regard to the Z10 zoning on this part of the site, the pattern of existing and permitted development along James's Place East, which consists of buildings of varying heights, the separation distances from the protected structures, the proposed heights of Block A and Block B which broadly align with the parapet height of the protected structures, the height of Block A relative to the proposed height of Block B, the proposed height of which was considered acceptable by both the planning authority conservation officer and the Inspector, the overall quality of the design and materials, and the overall planning gain in refurbishing the mews building and the provision of residential dwellings in the Georgian core, the Commission agreed with the assessment of the planning authority and considered that Block A would integrate comfortably in its context, would adequately respect the protected structures and would not be overbearing on them, and that the steps in the building height would reduce the bulk and massing of the proposed development and the impact on the mews dwelling, and considered, therefore, that the proposed height was acceptable and generally accords with the development plan objectives in relation to mews development and the protection of built heritage. The Commission omitted the Inspector's recommended condition number 2 accordingly.

The Commission noted the omission at further information stage of the community/cultural space proposed in the original planning application. The Commission considered that the 10,000-square-metre threshold specified in Objective CUO25 applies to gross floor area and, as such, the objective applies to the proposed development, and, therefore, the failure to provide such space could be considered a material contravention of the development plan. Having regard to the overall gross floor area of 10,719 square metres, which is not significantly in excess of the 10,000-square-metre threshold, the nature of the proposed development comprising two discrete and separate plots consisting of a separate residential apartment block and office block, the

Standards for New Apartments Guidelines for Planning Authorities (2025) which states that ‘the provision of new Communal, Community and Cultural facilities within apartment schemes shall only be required in specific locations identified within the development plan and shall not be required on a blanket threshold-based approach in individual apartment schemes’, and the provision of the community/sensory garden as part of the proposed development, the Commission considered that, while the omission of the internal community/cultural space materially contravenes Objective CUO25 of the development plan, all other aspects are in accordance with the development plan policies and objectives and are in accordance with the proper planning and sustainable development of the area, and, as such, that permission should be granted for the proposed development.

With respect to the first-party appeal in relation to condition number 5 of the planning authority’s decision, the Commission agreed with the assessment of the Inspector that there was a lack of precision in the condition, as applied by the planning authority, and a lack of clarity on what works to the lane would be acceptable to the planning authority. Given that works to the lane are not essential to the delivery of the scheme, the Commission decided to uphold the first-party appeal and omitted condition number 5 of the planning authority’s decision accordingly.

Conditions

1. The proposed 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 received by the planning authority on the 10th day of November, 2025 and by An Coimisiún Pleanála on the 6th day of February, 2026, 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.
 - (a) The internal lightwell serving apartments within Plot A shall be revised in accordance with the details submitted by the applicant to An Coimisiún Pleanála on the 6th day of February, 2026.
 - (b) The south-eastern boundary to the balconies on James Place East, where adjoining number 46, shall be a solid boundary.
 - (c) One cycle parking space per bedspace shall be provided in the ground floor bicycle store in Plot A.

Prior to commencement of development, revised drawings showing compliance with these requirements shall be submitted for the written agreement of the planning authority.

Reason: In the interest of clarity, residential amenity and orderly development.

3. 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.

Reason: In the interest of visual and residential amenity.

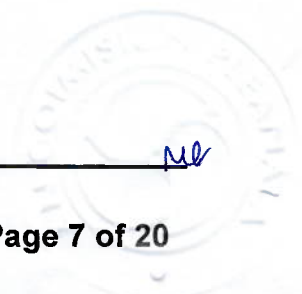
4. Prior to commencement of development, details of the materials, colours and textures of all external finishes, including samples, for the proposed development shall be submitted to, and agreed in writing with, the planning authority.

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

5. Prior to commencement of development, the developer shall submit details of the following for the written agreement of the planning authority in relation to Plot B:

- (a) Details of emergency access along the full length of the private access road along the eastern site boundary, in accordance with the requirements of Technical Guidance Document B of the Building Regulations Amendments, 2024, as amended.
- (b) Emergency, refuse and delivery vehicle access to the proposed development and any right-of-way access to the adjacent property at 36 Mount Street Upper.
- (c) Vehicle turning facilities without extensive reversing manoeuvres along the private access road of James's Place East.
- (d) Dedicated set-down/loading facility.
- (e) A Servicing, Delivery and Access Strategy for the overall proposed development.

Reason: In the interest of traffic safety.



6. The proposed development shall be amended as follows, which shall be indicated on drawings to be submitted and agreed in writing with the planning authority prior to commencement of development:

- (a) The vehicle access route to the rear of the Block A residential development shall be modified to provide refuge areas for pedestrians at regular intervals.
- (b) All doors shall open inwards into the development and not onto the public road, except where required for emergency egress.
- (c) A map delineating all areas of the development proposed for taking in charge.
- (d) Details of access management (key/fob access) to cycle parking and community garden.

Reason: In the interest of traffic safety, residential amenity and orderly development.

7. A Stage 1 Road Safety Audit (RSA) shall be prepared by an independent approved and certified auditor for the proposed development. The developer shall submit to the planning authority a copy of the RSA Stage 1 report and shall complete all of the recommended measures identified in the RSA Stage 1 prior to the opening of the completed development to traffic, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of traffic safety.

8. The developer shall comply with the following conservation requirements as follows:

- (a) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works 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 structure.

- (b) Dimensional anomalies on the first and second floor plans shall be corrected, noting that Section AA indicates that the garden (rear) elevation of the new office building is in the same location/vertically aligned at first and second floor levels.
- (c) Prior to commencement of the proposed development, the developer shall submit the following for the written agreement of the planning authority:
 - (i) Dimensions from the front of the glazing on the garden elevation of the new office building for each pair of stepped bays to the rear of numbers 43, 42, 41, 40, 39, and 38 to the rear elevation of the principal parent protected structure and equivalent dimensions to the rear wall of the rear returns at ground floor level.
 - (ii) Depth/dimension of the fin on the garden elevation of the new building at ground floor level.
 - (iii) New internal dimension of the reduced 'steps' in the footprint of the building (to the rear of numbers 41, 40, 39, and 38) at ground floor level.
 - (iv) Dimensions from the face of each of the three number steps at first and second floor level on the garden elevation to the rear elevation of the principal parent protected structure (on the understanding that the stepped bays are the same at first and second floor level).
 - (v) Dimension from the front of the glazing on the garden elevation at third floor level.
- (d) The roof plant area shall be centrally and symmetrically located and to the minimum necessary (in height and area) while

accommodating and screening all necessary plant and equipment to serve the new building.

- (e) During the course of the proposed development, the developer shall submit for the written agreement of the planning authority:
- (i) 1:20 plan, section and elevation drawings of sliding and pedestrian gates set within historic boundary walls, to be constructed of good quality timber, unless otherwise agreed with the planning authority.
 - (ii) Mews building: Conservation repair works shall be executed in accordance with the Conservation Architects' methodology and specification; submit detailed window and door schedule, and 1:20 drawings of existing and new windows and doors identifying repairs and/or replacements; roof coverings shall be of Bangor Blue slate, unless otherwise agreed in writing with the planning authority.
 - (iii) Number 40 Mount Street Upper: A condition survey of the entirety of the building to ensure that required conservation repairs are executed, to include the roof and parapet, localised pointing/render repairs, historic window and door repairs and other conservation repairs.
 - (iv) Number 40 Mount Street Upper Platform Lift: Submit record 1:20 drawing and photograph of historic/other paving at the front basement area, and methodology for careful lifting and reinstatement; include sample colours for the supporting posts for the platform lift; clarify the existing finish of the basement walls; all vegetation shall be carefully removed in accordance with best conservation practice under the guidance of the Conservation Architect.

- (v) Number 40 Mount Street Upper new gantry access to the rear: submit record 1:20 drawing and photograph of existing/proposed historic/other paving in the rear basement area; investigate whether the vertical supports to the proposed gantry can be refined/reduced in girth/profile, e.g. circular to reduce the visual impact of the proposed construction; submit dimensions of material to be removed.
 - (vi) Revised landscaping proposals omitting the large timber pergola and posts indicated in the visualisation in MOLA response to request for further information page.10, and proposing a more refined, slender approach to garden features, using softer planting and espaliered trees to form screens, where required, and ensuring that any trees specified do not become excessively high, in order to protect the setting of the protected structures on Mount Street Upper.
- (f) The proposed development shall be carried out in accordance with the following:
- (i) 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 off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

- (ii) All existing original features in the vicinity of the works shall be protected during the course of the refurbishment works.
- (ii) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.

Reason: In the interest of the protection of architectural heritage.

9. The amended landscaping scheme shall be implemented 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.

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

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

11. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, details of the surface water attenuation and disposal arrangements, including any SUDS measures, shall be submitted to the planning authority for written agreement.

Reason: To ensure a satisfactory standard of development and in the interest of public health and surface water management.

12. The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include the following:
- (a) The location of the site and materials compound(s), including area(s) identified for the storage of construction refuse.
 - (b) The location of areas for construction site offices and staff facilities.
 - (c) Details of site security fencing and hoardings.
 - (d) Details of on-site car parking facilities for site workers during the course of construction.
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
 - (f) Measures to obviate the queuing of construction traffic on the adjoining road network.
 - (g) Swept path analysis of construction access and demonstration that unobstructed use of the private access road along the eastern site boundary is maintained at all times during construction works.
 - (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
 - (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
 - (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be made available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and environmental protection.

13. Prior to commencement of development, a Resource Waste Management Plan (RWMP), as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 and 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 agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

15. 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.

16. Proposals for the name of the development, office/commercial unit identification and numbering scheme, and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Thereafter, all signs, commercial/office units and apartment 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.

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

17. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, public lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of the development in the interest of residential amenity and orderly development.

18. The proposed development shall be carried out and operated in accordance with the provisions of the Mobility Management Plan (MMP) submitted to the planning authority. A Mobility Manager shall be appointed to oversee the implementation of the strategy.

Reason: To achieve a reasonable modal split in transport and travel patterns in the interest of sustainable development.

19. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands 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 cannot be 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.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory re-instatement, or completion and maintenance until taken in charge by the planning authority or a management company, of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. 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 completion and maintenance of the development until taken in charge.

21. 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.

22. The developer shall pay to the planning authority a financial contribution of €5,000 (five thousand euro) per residential unit as a contribution in lieu of the public open space requirement in respect of public open space benefitting the proposed development in the area of the planning authority that is provided or intended to be provided by or on behalf of the planning authority in accordance with the terms of the adopted 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 indexation provisions of the Scheme at the time of payment.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

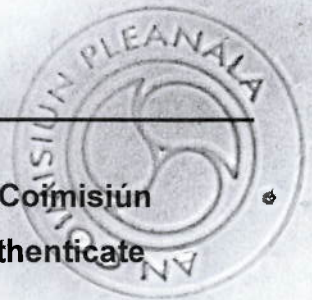
23. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. 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.

Mary Gurré

Mary Gurré

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



Dated this *15* day of *May* 2026.