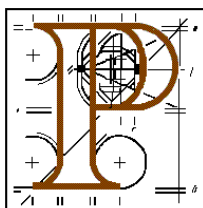


# An Bord Pleanála



## INSPECTOR'S REPORT

**PL 29S 246244**

**DEVELOPMENT:** Permission for alterations to previous grant of permission under P. A. Reg. Ref. Ref. 3086/13, incorporating P. A. Reg. Ref. 2123/09 and 3732/10 incorporating external elevation changes, internal plan changes including amalgamation of suites, adjusted rear balconies, increased rear garden service enclosure at rear of No 23 Upper Merrion Street, internal fire safety alterations at 11a Lower Baggot Street and related sundry works.

**LOCATION:** The Merrion Hotel, Nos. 21-24 Upper Merrion Street and Nos 8-11and 11A Lower Baggot Street, Dublin 2. (Protected Structures.)

### PLANNING APPLICATION

**Planning Authority:** Dublin City Council  
**P. A. Reg. Ref:** 4168/15  
**Applicant:** The Landmark Investment Company Ltd.  
**Decision:** Grant Permission.

### APPEALS.

**Appellant:** William Doran.  
**Type of Appeal:** Third Party against Decision to Grant Permission.

**Date of Inspection:** 7<sup>th</sup> and 8<sup>th</sup> June, 2016.

**Inspector:** Jane Dennehy.

## 1. **SITE LOCATION AND DESCRIPTION.**

- 1.1 The Merrion Hotel comprising the Georgian Houses at Nos 21 – 24 Merrion Street Upper opposite Government Buildings extends along the south side of Fitzwilliam Lane, behind Nos 1-7 Lower Baggot Street and incorporates Nos. 8-11 Lower Baggot Street, (formerly the site of JWT House) and No 11a Lower Baggot Street which is a three storey, two bay Georgian house. At the time of inspection the JWT building had been demolished and the previously permitted hotel development at Nos 8-11A Lower Baggot Street was under construction PL 29S 242657/ A. Reg. Ref. Ref. 3086/13 refers.)<sup>1</sup>

## 2 **THE PROPOSED DEVELOPMENT.**

- 2.1 The application lodged with the planning authority indicates proposals for Permission for alterations to previously permitted development under grant of permission under P. A. Reg. Ref. Ref. 3086/13. This permitted development incorporates P. A. Reg. Ref. 2123/09 and 3732/10.

- 2.2 The current proposal provides for;

Changes to the previously permitted external elevations,

Changes to the internal plan which includes the amalgamation of suites at first floor level and at third floor level,

Adjustments to the rear balconies,

An increasing the size of the garden service enclosure, (from 11 square metres to 18 square metres in floor area) at the rear of No 23 Upper Merrion Street, and,

Alterations at 11a Lower Baggot Street related to fire safety requirements and related sundry works. The application includes a building impact assessment in relation to the proposed works at No 11A Baggot Street Lower.

### 2.2 **Technical Reports:**

The report of the Conservation Officer in which reference is made to the planning history it is remarked that the principle of development has

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<sup>1</sup> During the inspection on 8<sup>th</sup> June, 2015 the inspector was accompanied by Mr Peter Murphy, Facilities Management, Merrion Hotel. A walk through inspection of NO 11A Lower Baggot Street was not undertaken owing to construction works taking place on the site at the time.

been established with substantial impact on the surviving historic structures. Concern is expressed as to the adequacy of the details provided in the application and as the standards of the proposed works. A number of requirements which can be dealt with but compliance with a condition are recommended.

The report of the Dart Underground Office notes the site location within the Zone of influence of Dart underground. The other technical reports indicate no objection to the proposed development.

## 2. **PLANNING HISTORY.**

### 3.1 The current application is for some modifications to previously permitted development, details of which are outlined below:

**P. A. Reg. Ref: 2123/09:** Planning permission was granted for demolition of JWT House, a four storey over basement office block at Nos. 8-11 Lower Baggot and construction of replacement building of a five storey over two basement level building along with extensions, refurbishments and alterations to No 11A Lower Baggot Street incorporating ground floor retail use. The application included provision for a lobby and retention of an existing kitchen serving a restaurant within the Hotel. Upper floors were incorporated into the hotel as an extension and demolition of an existing link between the hotel and the site and the construction of a new glazed link through the ornamental gardens and central courtyard. A sixth floor was omitted by condition.

The new building was to be built tight to the party wall with No. 11A and on part of the party wall with No. 7 Lower Baggot Street. The works to 11A Lower Baggot Street included the removal and insertion of partitions, blocking up and creation of openings (including 2 new openings through the chimney breast), removal of a roof light, brick chimney stack and clay pot.

**P. A. Reg. Ref. 3732/10:** Permission was granted for alterations to development previously permitted under P. A. Reg. Ref. 2123/09. The proposals included modifications to ground floor layout and glazed link, removal of internal atrium and modifications to hotel suite accommodation including balconies and terraces.

**PL 29S 242657/ P. A. Ret. Ref. 3086/13:** Following third party Appeal, the planning authority decision to grant Permission for alterations to the previously permitted development was upheld. The proposals included provision for a new restaurant at ground floor level, change of use of part of the hotel site accommodation

a ground floor level to kitchen with enclosed roofing over the terrace of Restaurant Patrick Guilbaud, modification to a glass link and minor elevation changes and a new hoist and associated glass enclosure in the garden area and basement plan alterations include an extended floor area and parking modifications.

### **3. DECISION OF THE PLANNING AUTHORITY.**

- 4.1 By order dated, 2nd March, 2016, the planning authority decided to grant permission subject to seven conditions, six of which provide for standard requirements.
- 4.2 Condition 2 contains a number of requirements recommended by the Conservation Officer which relate to good conservation practice and includes requirements for works specification and methodology, for the works to be carried out under the direction of a conservation architect.

### **4. THE APPEAL.**

- 5.1 An appeal was received from William Doran on his own behalf on 1st March, 2016.
- 5.2 According to the appeal the application is deficient in the description and in a number of anomalies between the previously proposed and current proposed works. An outline of the details follows:

- A commencement notice relating to the grant of permission under P.A. Reg. Ref. 3086/13 was lodged in December 2014 but works underway providing for the reduction in the basement area under Mo 8 Lower Baggot Street which are part of the current application have commenced. (Drawing 161 basement Level 1 refers). These works are not specifically included on the public notices and should be included as retention of an alteration. No commencement notices were lodged for the permitted developments under P. A. Reg. Ref. 2123/09 and 3732/10.
- According to the application the relocation of the wall results in less carparking. The space east to west is given as 5.2 m + 6m+ 4.31m = 15.51 m, allowing the normal 4.8 m deep parking space X 2 leaving a 5.5 m wide aisle which is not impractical. There is no reference to the proposal to reduce the parking in the notices.
- It appears from Drawing 161 and Basement Level 1 plan (for the application under P. A. Reg. Ref. 3086/13) that three spaces are to be lost at the northern end of the basement to facilitate the dry cleaning facility. This is not described in the notices.

- There is no information about the chemicals to be used in the dry cleaning facility, ventilation, filtering and chemical storage. This information should be available so that the impact on the receiving environment and neighbouring properties can be assessed.
- Details on Drawings 163, 164 and 166 are at variance with detail on Drawing 162. The former have a note “new building built on party wall with adjoining property”. The latter has a note “new building with block outer leaf behind existing building and stone cladding above roof level”. There is no party wall at this location as each property has its own boundary wall prior to the recent demolition at No 8 Baggot Street Lower. The applicant is building a new boundary wall to cater for the development. The developer does not rely on No 7 Baggot Street Lower in any way and there is no need for the development to impact on it.
- No 7 Baggot Street Lower is not a protected structure or a proposed protected structure.

## 6. APPLICANT’S RESPONSE TO THE APPEAL.

6.1 A submission was received from McCabe Durney Barnes on 1<sup>st</sup> April, 2016 and an outline of the response to the appeal follows:

- The parent permission covers the basement wall realignment but it is accepted that the basement level 1 is reduced in area and the western wall is setback into the site by circa one metre. This variation is immaterial. [O’Connell v Dungarven Energy Ltd., Unreported, High Court Finnegan, J. 27 February, 2001]
- It is not necessary to describe every detail in public notes and the description is perfectly adequate to alert the public to the proposal. Section 3.4 of the Development Management Guidelines (DOEHLG, 2009) is reproduced in support of the claim. Validation of an application is not within the scope of the Board’s remit.
- There is nothing of note with regard to a reduction in parking. There is no minimum provision in the current development plan standards which has maximum standards.
- Details of the chemicals to be used in the private dry cleaning room are not relevant to a planning assessment. Drycleaners is not a different and distinct use to a shop in the Planning and Development Regulations which includes use as dry cleaners.
- It is not relevant that No 7 Lower Baggot Street is not included on the record of protected structures,

- The prior grant of planning permission under P. A. Reg. Ref. 3086/13 incorporates the earlier permissions so there is no requirement to lodge commencement notices for them. The validity of the commencement notices is not relevant to consideration of an appeal.

## **7. RESPONSE OF THE PLANNING AUTHORITY ON THE APPEAL.**

- 7.1 There is no submission from the planning authority on file.

## **8. DEVELOPMENT PLAN.**

- 8.1 The operative development plan is the Dublin City Development Plan, 2012/2017 according to which most of the site area including the Merrion Street properties and space to the rear is subject to the zoning objective: Z8: *“To protect the existing architectural and civic design character, to allow only for limited expansion consistent with the conservation objective.”* The remainder of the site area comprising the properties at 8-11a Lower Baggot Street is subject to the zoning objective: Z4: *“to provide for and improve mixed services facilities.”*
- 8.2 The location is within a “Conservation Area” and the part of the site at the southern edge comes within a Zone of Archaeological Potential.

## **9. EVALUATION**

- 9.1 This application is for permission for some modifications to the previously permitted development under construction at present. There is no objection to the proposed amalgamation of previously permitted suites at first and third floor levels, the enlargement of the previously permitted glazed garden hoist enclosure and changes to the elevations and balconies.

- 9.2 The issues raised in the appeal and discussed below are:

Planning history and Procedural issues relating to public notices.  
Basement Level Changes – No 11A Baggot Street Lower.  
Parking  
Emissions – Dry cleaning.

- 9.3 **Planning history and Procedural issues relating to public notices.**

The duration of the grants of planning permission under P. A. Reg. Ref. 2123/09 and 3732/10 is a five year period following the date of the final

grant of permission. Permission for alterations to these prior grants of permission was granted in March, 2014 under P. A. Reg. Ref. 3086/16 (PL 29S 246257) and a commencement notice was lodged with the planning authority for this permitted development in December, 2014 according to the submissions on file. Any question regarding requirements for lodgement of commencement notices with the planning authority regarding the grant of permission under P. A. Reg. Ref. 3087/13, and the prior grants of permission does not come within the planning remit of An Bord Pleanála and can be resolved through the legal system.

- 9.4 Similarly, it would be necessary to seek clarification as to the validity of the current application having regard to the questions raised in the appeal about adequacy of the descriptions in the notices for the current application through the legal system. The remarks made in the response to the appeal, with reference to the Development Management Guidelines are relatively persuasive as to the adequacy of the details in the notices. However, a reduction in on-site parking consequential to the proposed modifications along with the reduction in basement size consequential to the internal fire safety alterations are material considerations.

9.5 **Basement Level Changes – No 11A Baggot Street Lower.**

The proposed works at No 11A allow for integration of the house partially into the overall hotel development along with a ground floor retail use and some of the works proposed are stated to facilitate fire safety requirements. The proposed works, which will facilitate ancillary use at basement level for the hotel and use of the upper floors appear to be reasonable and are acceptable to the conservation officer subject to standard requirements to ensure good conservation practice. (A walk through inspection was not undertaken during the course of inspection.)

9.6 **Parking.**

The current proposal does not involve significant changes to the permitted intensity of development and the proposed modifications would result in a slight reduction in on-site parking capacity. There are no application details or technical reports available in connection with the prior application relating to on-site parking facilities. Having regard to the central city location and absence of specified parking standards for hotel development within the development plan, it is considered that the impact of the reduced capacity which would occur would be negligible. It is noted the cycle parking is to be increased and during the course of the inspection it was evident that that these facilities appear to be used by a several staff members who cycle to work.

9.7 **Emissions – Dry cleaning.**

The current proposal involves relocation of an existing on site dry cleaning operation at basement level within the complex. Use of

chemicals, arrangements for emissions and the composition of emissions are subject to a separate legislative code. It is not considered that any planning issues arise in connection with the proposed relocation of the existing dry cleaning services at the hotel.

#### **9.8 Appropriate Assessment.**

The applicant has referred to a previously submitted screening report on the basis of which it is advised that no appropriate assessment issues arise in connection with the current proposal. Given the nature and extent of the proposed development this is considered acceptable.

- 9.9 Having regard to the nature and scale of the proposed development and the likely emissions from it, the nature of the receiving environment and 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 European sites.

### **10. CONCLUSION AND RECOMMENDATION.**

- 10.1 In view of the foregoing, it is recommended that the appeal be rejected and that the decision of the planning authority be upheld on the basis of the reasons and considerations and subject to the conditions set out in the draft order overleaf.



## DECISION

**Grant Permission on the Basis of the Reasons and Considerations and subject to the Conditions set out below.**

### REASONS AND CONSIDERATIONS

Having regard to the planning history for the site and to the nature of use and to the location within the central city area, it is considered that subject to compliance with the conditions set out below, the proposed development would not adversely affect the fabric, character and setting of protected structures, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

### CONDITIONS.

- 1 The development shall be carried out in accordance with Condition Nos. 1 to 8 attached to the grant of permission under P. A. Reg. Ref. 3087/13 (PL 29S 246257) on 13<sup>th</sup> March, 2014 except as amended to conform with the provisions indicated on the plans and particulars lodged with the current application and with the following condition:

**Reason:** In the interest of clarity.

- 2 The works at shall be carried out under the direction of an architect with specialist expertise in historic building conservation in accordance with best conservation practice as provided for in, *Architectural Heritage Protection: Guidelines for Planning Authorities* issued by the Department of The Environment, Heritage and Local Government in 2005 and the accompanying technical *Advice Series*.

Prior to the commencement of the development, the applicant shall agree the following requirements in writing with the planning authority for the proposed works at No 11A Lower Baggot Street:

Details, (including exemplars) for repairs to brickwork, windows, window openings and stone cills on the main façade,

Shopfront design,

Repair works at roof level incorporating retention of the historic features of the original roof,

Design, materials and finishes for the proposed terraces and,

A written strategy and method statement for the proposed repairs to the interiors.

**Reason:** In the interest of good conservation practice.

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**Jane Dennehy,  
Senior Planning Inspector.  
8th June, 2016.**