



An  
Bord  
Pleanála

## Inspector's Report ABP 304863-19

---

<b>Development</b>	External repairs and alterations to include replacement of non-original windows, internal alterations and landscaping works, Change of use of mews from mechanics' workshop to office use, external and internal alterations, and rooflight, raised roof and wall and mezzanine.
<b>Location</b>	No 5 Herbert Street, and 5 Herbert Lane, Dublin 2. (Protected Structure.)
<b>Planning Authority</b>	Dublin City Council.
<b>P. A. Reg. Ref.</b>	2094/19.
<b>Applicant</b>	College of Psychiatrists of Ireland.
<b>Type of Application</b>	Permission
<b>Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Katy McGuinness and Felim Dunne,
<b>Observer</b>	Clive and Patricia Carroll.
<b>Date of Site Inspection</b>	7 <sup>th</sup> October, 2019
<b>Inspector</b>	Jane Dennehy

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	5
3.4. Third Party Observations .....	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Applicant Response .....	8
6.3. Planning Authority Response .....	8
6.4. Observations .....	8
7.0 Assessment .....	9
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13
10.0 Conditions .....	14

## 1.0 Site Location and Description

- 1.1. The site has a stated area of 327.7 square metres and is that of No 5 Herbert Street, a Georgian townhouse and No 5 Herbert Lane, a mews structure at the rear. The total stated floor area of the two existing structures is 452.5 square metres
- 1.2. No 5 Herbert Street, which is occupied by the applicant and which has been in office use is a four storey, two-bay over basement, terraced Georgian house with a brick finish to the front and rear elevations at ground level and above and with a rear return at first floor and ground floor level. At first floor level the projection of the return beyond the main rear building line is 2.5 metres whereas at ground floor level the projection is 7.1 metres. Access to the front door over which there is a semi-circular fanlight from Herbert Street is via granite steps and cast-iron railings and via steps behind railings beneath to the basement level. The house has a double pitched roof with a central valley, stone and granite parapets. Chimney stacks are shared with the adjoining property at No 6 and rainwater goods are cast iron. Some of the existing materials and fixtures; chimneys, other stonework, windows, roof materials and rainwater goods are in poor condition resulting in some water ingress. The house has original timber sash windows and rendered reveals and joinery and plasterwork within the interior is intact and in good condition.
- 1.3. No 5 Herbert Lane is a mews structure which has been but is no longer in use as a mechanic's workshop and is at present in use for parking by staff at No 5 Herbert Street. The original front façade has been removed and a front extension covered over by a metallic roof has been constructed to the front over the former forecourt for the mews where there are steel doors opening onto Herbert Lane. The façade facing towards across the former rear gardens within the site towards the rear of the house which is finished in brick which has been painted over is intact. The openings in this original façade are blocked up and there are also two niches. The rear garden area, (between the two structures) is covered over with concrete slabs. The party boundary walls are substantially original and constructed in similar material to the façade of the mews.
- 1.4. The original plot for No 6 Herbert Street which is in use as a single dwelling unit has been subdivided and the mews structure, No 6 Herbert Lane which the appellant party's property is has been converted into a two-storey dwelling unit.

## 2.0 Proposed Development

The application lodged with the planning authority indicates proposals for:

- External repairs and alterations to include roof repairs, facade repairs, re-slating new flashings and repairs to chimney stacks and stone cappings, replacement of non-original windows, and landscaping works at No 5 Herbert Street. the Georgian townhouse. The proposed internal alterations and insertions to the townhouse include: installation of a glass lobby ( which is reversible), widening of openings at basement level spine wall and removal of partition to stairs, underfloor heating and new concrete slab in lowered basement floor, conversion of dogleg stair to straight run at basement level.
- For No 5 Herbert Lane, the mews, the proposal is for change of use from mechanics' workshop to office use, (additional to the office use by the applicant in the townhouse, installation of a raised roof and insertion of a mezzanine level. external and internal alterations to include repair and reinstatement of the façade, facing towards the rear of the townhouse with the openings unblocked. The insertion of the mezzanine and raised roof results in two storey presentation on the Herbert Lane frontage with a profile similar to No 6 Herbert Lane. The stated additional floor area, (new build) is 51.3 square metres which in addition to the existing floor area of 452.5 square metres results in a total stated floor area for the overall development is 503.8 square metres. The stated site coverage is 56% and plot ratio is 1.54 square metres.

The application is accompanied by a comprehensive conservation report inclusive of a building record, an impact statement and a method statement for the proposed works at No 5 Herbert Street which also includes a report on No 5 Herbert Lane.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated, 12<sup>th</sup> June, 2019, the planning authority decided to grant permission for the proposed development subject to nine conditions of a standard nature.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The **planning officer** indicated satisfaction with the proposed development noting the positive overall observations and recommendations of the conservation officer on the proposed works.

The planning officer also notes:

- that the mechanic's workshop use of the mews structure, which comes within the curtilage of the protected structure status of No 5 Herbert Street, is a non-conforming use. Reference is made to section 14.6 of the CDP providing for consideration of proposals , on their own merits, for improvement and extensions to premises in non-conforming use.
- that the proposed office use would be linked to the office use in No 5 Herbert Street, tying in with the historic use.
- that the proposed conservation and refurbishment project is sensitive and appropriate for the existing structure and ensures continuation of use.
- that there is no potential for adverse impact on the amenities or properties in the vicinity and is compatible with existing uses.

The planning officer acknowledges that residential use would be optimal but the circumstances of the current proposal for change from a non-conforming mechanics workshop use to non-conforming office use is acceptable and compatible with the amenities of the surrounding area.

3.2.2. The **Conservation Officer** contains a statement that the details of the proposed development were reviewed and were discussed with the planning officer.

3.2.3. The **Drainage Division** indicates no objection subject to standard conditions.

3.2.4. The **Transportation Planning Division** indicates no objection subject to standard conditions although the lack of parking provision for the proposed office use at the mews at No 5 Herbert Lane is noted. Owing to the central city location, the absence of parking provision is accepted but cycle parking provision, by condition is required.

### 3.3. **Third Party Observations**

Observer submissions were lodged by the South Georgian Core Residents Association and some residents who indicate objection to the proposed change of use of the mews structure at No 5 Herbert Lane, to office use it being contended that it should be converted to residential use in accordance with the zoning objective. In addition, there is objection to the addition of a mezzanine floor to at the mews and the lack of parking provision for the proposed mews.

### 4.0 **Planning History**

There is no record of planning history for the application site.

### 5.0 **Policy Context**

#### 5.1. **Development Plan**

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2021 (CDP) according to which:

No 5 Herbert Street comes within an area subject to the zoning objective Z8: *to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with conservation objective.*

The site of No 5 Herbert Lane comes within an area subject to the zoning objective Z1: *to protect, provide and improve residential amenities.* (Bed and Breakfast accommodation is open for consideration.)

No 5 Herbert Street is included on the record of protected structures (No 5 Herbert Lane would come within the curtilage).

Under Policy Objective CHC2 it is the objective of the planning authority to ensure the protection of the special interest of protected structures, the curtilage and the features within it.

The reinstatement or protection of the original planform, retention of historic use where possible, securing long term viable use and avoidance of harmful extensions and modifications is encouraged. (s 11.1.5.3)

The site location also comes within the area of the South Dublin Georgian Core in respect of which Dublin City Council published, “*The Future of the South Georgian Core*” in 2013.

Herbert Street is a designated ‘conservation area’ (s 11.1.5.4 refers.)

Under Policy Objective CHC2 it is the objective of the planning authority to ensure the protection of the special interest and character of conservation areas.

Section 14.5 provides guidance on scope for relaxation of zoning objective provisions for development proposals affecting protected structures especially where the long-term viability of the structure is facilitated, and works are at the highest standard.

Section 14.6 provides for consideration on merit, proposals for extensions and improvements to structure in non-conforming uses with favourable consideration being accepted where the proposed development does not adversely affect amenities of premises in the vicinity or prejudice the proper planning and sustainable development of the area.

Policy QH25 provide for encouragement of reintroduction of residential use in the historic areas of the city which is consistent with architectural integrity and character.

Guidance and standards for mews dwelling development is set out in section 16.10.16

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

An appeal was received from Katy McGuinness and Felim Dunne of No 6 Herbert Street on their own behalf on their own behalf on 8<sup>th</sup> July, 2019. They state that they reside at No 6 Herbert Street and welcome the proposed refurbishment of No 5 Herbert Street. They state that they object to the proposed change of use of No 5 Herbert Lane from mechanic’s workshop to office use along with the addition of a new floor. According to their appeal:

- No 5 Herbert Lane is subject to the zoning objective: “Z1” to protect, provide and improve residential amenities. (The permissible uses and uses open for consideration are listed in the appeal.) and it is envisaged that a wide range of residential accommodation should be available within sustainable communities in the city, within easy reach of facilities and services, by foot and public transport.
- They have welcomed the significant and increasing residential community on Herbert Lane and would also welcome a rear to residential use t No 5 Herbert Lane.
- The proposed change of use does not accord with the CDP. There is no justification for abandoning the zoning for residential use. No 8 Herbert Lane should be converted to residential use, as a mews dwelling while the No 5 Herbert Street can continue in office use.
- No 5 Herbert Street and No 5 Herbert Lane operate independently of each other, are completely separate and there is no connection between the two buildings at all.

## 6.2. Applicant Response

There is no submission on file from the applicant.

## 6.3. Planning Authority Response

In a statement received from the planning authority on 31<sup>st</sup> July, 2019, it is stated that the planning authority has no additional observations to those that are within the planning officer report.

## 6.4. Observations

A submission was received from Clive and Patricia Carroll on their own behalf on 24<sup>th</sup> July, 2091 They state that:

- They have been long term residents at Herbert Lane. (No 59)
- They fully support the Appeal and state that most conversions along Herbert Lane have been for residential use in line with the zoning objective. They



believe that these conversions have brought life into the city and are an accessible (affordable) alternatives to the large Georgian houses. Conversion to office use at No 5 Herbert Lane would be a lost opportunity for conversion to residential use and would be irreversible

- The proposed change of use does not accord with the CDP.

## 7.0 Assessment

7.1. The objections in the appeal and observer submission are to the proposed change of use of the mews structure at No 5 Herbert Street. First, having regard to *de novo* consideration of the application, some comments on the proposed works at No 5 Herbert Street follow below under the heading. “No 5 Herbert Street”. Consideration of the objections to the proposed change of use to the mews structure, along with the proposed insertion of a mezzanine floor are then considered under the heading, ‘No 5 Herbert Lane. Finally, environmental impact assessment and appropriate assessment screening are addressed under separate subheadings.

### 7.2. No 5 Herbert Street. (Georgian Townhouse.)

7.2.1. With regard to the townhouse which is in occupation by the applicant and in use as office accommodation, a walk-through visual inspection was undertaken during which it was noted that fixtures, fitting and fittings and are well maintained, Interventions to date having been limited. The exterior, especially the roof and chimney stacks require repair and maintenance works to include protective measures to prevent water ingress. It is considered that the building survey and condition survey and condition study and the proposed works as outlined in the conservation method statement, are in accordance with good building conservation practice and appropriate and will benefit the survival and viability and use of the structure which will be sensitively enhanced.

7.2.2. It is considered that a satisfactory outcome has been achieved in the proposed development with regard to justification for the extent of intervention of and loss of historic and delivery and achievement of satisfactory conservation maintenance, repair and refurbishment is consistent with the protection, viability and sustainability of the structure and achievement of a good quality accommodation for the occupants. The substantive retention of the original planform, original fixtures and

features, appropriate in mechanical and electrical works to modern standards allowing for removal of unsightly fittings is in keeping with the protection of special interest and historic features and good conservation practice. Significant ducting and new routing are required along with ventilation fire upgrades. Given the extent and complex nature of works involved and the significance of the existing historic building, it is recommended, should permission be granted that the requirements by condition include provision for servicing specifications and runs implemented under the direction by a specialist with expertise in the servicing of historic buildings.

### **7.3. No 5 Herbert Lane. (Mews Structure.)**

- 7.3.1. Central to the submissions of the Appellant and Observer Parties is the objection to the proposed change of use of the mews structure to offices use and the proposed addition of a mezzanine floor to the structure. They contend that the proposed commercial/office use is contrary to the 'Z1' zoning objective which provides for residential development and they elaborate of the benefits of the increasing residential community along Herbert Lane, with reference to the proactive development plan policies for encouragement of residential use within the city centre and the south Georgian core.
- 7.3.2. The site corresponds to the historic plot of No 5 Herbert Street, but the Georgian townhouse and the mews structure facing onto Herbert Lane are subject to separate zoning objectives. The mews structure, the forecourt of which was been covered over and enclosed to facilitate the former mechanics use, comes within the area subject to the 'Z1' zoning objective, *"to protect, provide and improve residential amenities"* whereas the Georgian townhouse and the former garden area for No 5 Herbert Street come within the area subject to the 'Z8' zoning objective: *to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with conservation objective.*
- 7.3.3. The applicant is in ownership of both structures within the historic curtilage the entirety of which forms a single planning unit. There are no proposals for subdivision of the plot and to this end, the contention in the appeal that the mews structure and the Georgian townhouse are totally independent and separate from each other is not accepted. However, it is acknowledged that some of the historic plots have been

subdivided providing for two separate independent developments as is the case at No 6 Herbert Street where the plot is subdivided providing for the mews structure, No 6 Herbert Lane which has been converted into a single dwelling unit with private gardens.

- 7.3.4. During a walk-through Herbert Lane undertaken as part of the inspection it was noted that there is a mix of commercial and residential uses the lane and some commuter parking use on both sides of the lane frontage. Commercial/small business office use was observed clearly as the predominant use interspersed with some residential use. It was not immediately apparent that the range of uses at the various premises along the lane in effect were in any way incompatible. However, it is agreed that the achievement of the policy objectives for reversion to residential use in the South Georgian Core, through pro-active encouragement of residential development at properties along the lane should not be constrained or undermined.
- 7.3.5. The preclusion of office use within 'Z1' zoned lands implies that the proposed use is in material conflict with the zoning objective given that it is neither 'permissible', or 'open for consideration' within Z1 zoned lands. In this instance, the proposal for change of use amounts to facilitation of the office space needs of the applicant / occupant of the Georgian house. It entails the addition of fifty-one square metres for office use linked to and in connection with the existing office space at the main house with the applicant being the sole occupant. In effect the proposed development is for an extension and modest intensification of an established office use on the historic plot, the additional office space coming within the area subject to the 'Z1' zoning objective in which office use is not 'permissible' or 'open for consideration' according to the CDP.
- 7.3.6. In view of the former mechanic's workshop use, also a non-conforming use, to limited quantum of office space involved, to the refurbishment, repair and maintenance works and upgrading works proposed for the mews structure and the townhouse, it is considered that there are reasonable circumstances, with reference to the provisions of section 14.6 of the CDP, for the proposed development to favourably considered in that it would result in benefits and planning gain. The visual amenities of the built environment along Herbert Lane would be enhanced. The proposed development accords with good conservation practice, especially in delivery of protection, maintenance of historic fabric and viability of historic buildings

and, it is compatible with the adjoining residential use. The proposed change of use and insertion of a mezzanine floor at the mews structure in conjunction with the proposed refurbishment and conservation works would not adversely affect the amenities of premises in the vicinity or the proper planning and development in the area. There is enhancement, notwithstanding some intervention to historic fabric functional to the survival and ongoing maintenance of the structure to facilitate upgraded facilities and servicing. To this end, the proposed change of use merits positive consideration and the views and decision of the planning authority in respect of the proposed change of use are fully supported.

- 7.3.7. The objections to the proposed change of use based on parking demand, it being contended that five spaces within the mews structure would be displaced on lack of on-site parking provision to serve the additional office space have been taken into consideration. It is of note that there appears to be no parking provision for office accommodation based in No 5 Herbert Street, but the observations of the Transportation Planning Division which accepts the proposed change of use, having regard to the central city location and sustainable transport policy have been noted. Pay and display parking is available along Herbert Lane and the surrounding street network which although unsuitable for all day commuter parking may facilitate the development as short- term parking. The proposed development is acceptable in this regard.

#### **7.4. Environmental Impact Assessment.**

- 7.4.1. Having regard to the minor nature of the proposed development and its location in a serviced inner urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.5. Appropriate Assessment.**

- 7.5.1. Having regard to the scale and nature of the proposed development and to the serviced inner urban location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision be upheld, and that permission be granted based on the draft reasons and considerations and subject to the conditions set out below.

## 9.0 Reasons and Considerations

Having regard to the location of No 5 Herbert Street, a protected structure, within an area subject to the zoning objective, Z8 *to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with conservation objective*, to the location of No 5 Herbert Lane which is within the curtilage of No 5 Herbert Street but in an area subject to the zoning objective, Z1: *to protect, provide and improve residential amenities*, within the Dublin City Development Plan, 2016-2022, to the provisions Section 14.6 of the CDP providing for consideration, on their own merits of proposals for extensions and improvements accommodating non-conforming uses it is considered that, subject to the conditions set out below, the proposed development, would not seriously injure the residential amenities of properties in the vicinity on Herbert Lane, would be acceptable in terms of traffic safety and convenience, would not adversely affect the historic fabric, integrity and character of No 5 Herbert Street, a protected structure, including features of special interest within the curtilage 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 application as amended by the further plans and, lodged with the planning authority 16<sup>th</sup> May, 2019, except as may otherwise be required 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 proposed development shall be carried out under the direction of an architect with specialist expertise in historic building conservation and in accordance with the recommendations within: Architectural Heritage Protection: Guidelines for Planning Authorities issued by The Department of the Environment, Heritage and Local Government in 2005 and who, prior to the commencement of the development, shall be submit and agree in writing with the planning authority the following requirements:
  - (a) Full details of all ventilation and duct work, fire upgrading work and service runs with continuous routing being used as a means of prevention of leakage and damage to historic fabric in concealed areas. Details shall include associated necessary opening works to facilitate routes. The design and implementation of the servicing shall be carried out under the direction of a competent person with specialist expertise in servicing of historic buildings.
  - (b) Methodology for cleaning and removal of ivy and other vegetation, refurbishment, repair and maintenance of all external and internal fabric, fixtures, fittings and features.
  - (c) All existing original features, internal and external, shall be protected prior to and throughout the duration of the construction stage.

(d) All works shall be implemented and completed under the direction of the architect with specialist expertise in historic building conservation in accordance with best conservation practice. Repairs to fabric shall be carried out by specialist historic fabric conservators and craftsmen.

**Reason:** In the interest of clarity, and to ensure the protection of the historic fabric, character, integrity and special interest of the existing house at No 5 Herbert Street, a protected structure and all historic features of the special interest within its curtilage.

4. Water supply and drainage arrangements, including the 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.

5. The applicant shall obtain water and waste water connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

6. Details of materials, colours and textures of all external finishes which shall include the provision of samples for the proposed new roof for the mews at No 5 Herbert Lane shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

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

7. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with, "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interests of sustainable waste management.

**Jane Dennehy**  
Senior Planning Inspector  
9<sup>th</sup> October, 2019.