



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306349-20

---

<b>Development</b>	PROTECTED STRUCTURE: Change of use from offices to residential to provide 8 apartments.
<b>Location</b>	38 & 39 Blessington Street, Dublin 7
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	3274/19
<b>Applicant(s)</b>	Sayonview Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Sayonview Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	11 <sup>th</sup> May 2020.
<b>Inspector</b>	Sarah Lynch

## 1.0 Site Location and Description

- 1.1. No. 38 & 39 Blessington Street are Protected Structures comprising of mid terrace, three storey over basement Georgian buildings with pedestrian access from street level to the front and vehicular access to the rear. Rear access is obtained from Berkeley Place and open space comprises hard landscaping which is predominantly used for parking.
- 1.2. The buildings were formally used as office accommodation and have been amalgamated as a single use. Both buildings are vacant and in need of significant restoration works. Historical interventions to these buildings in the form of RSJs and new openings have resulted in the loss of historic fabric, including the loss of all but two original windows, the majority of internal doors and significant damage to plasterwork. External feature such as railings, boot cleaner, front door and stone staircase are in situ and will be maintained and restored.
- 1.3. The site is located in an area which is subject to the Living City Initiative tax incentive scheme and has direct access to Blessington Street Park.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of the following:

The change of use from offices to residential at basement, ground, first and second floor level to provide a total of 8 no. one-bed apartments to be provided as follows;

- 38 Blessington Street - 4 no. one-bed apartments at basement, ground, first and second floor levels;
- 39 Blessington Street - 4 no. one-bed apartments at basement, ground, first and second floor levels;
- associated internal and external amendments to accommodate same including; the infilling of existing interconnections between 38 and 39 in order to revert the properties back to their original independent function;
- Removal of rear basement window from no. 38 to provide for a doorway;
- replacement of front basement window to no. 39;

- Provision of utility rooms with return areas of no. 38 & 39;
- General restoration and refurbishment works to include;
  - the restoration and repair of existing stairs and landings,
  - the repairs of ceilings and walls,
  - upgrade and repair of plumbing, electrical and heating services, and plaster works,
  - removal of non-original partitions and openings,
  - removal of external security window bars,
  - provision of new internal layout;
  - repair/upgrade of existing doors and windows and make-good structures as required according to best conservation practice.

Planning permission is also sought for the upgrading of the rear car parking area to provide permeable paving together with landscaping, bicycle parking spaces, refuse storage areas together with existing car parking spaces; and all associated site and engineering works necessary to facilitate the development

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Dublin City Council determined to refuse permission for the following reasons:

1. By way of its design and arrangement, the proposed development would result in significant loss of primary historic fabric, would compromise the legibility of the historic floor plan and would cause serious injury to the special architectural character of the Protected Structures and the curtilages. The proposed works will not protect, conserve nor enhance the special interest of the Protected Structures and the curtilages and would therefore contravene Section CHC2 (a), (b) and (c) of the Dublin City Council Development Plan 2016-2022 and the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The planners report is consistent with the decision of the planning authority, further information was requested in relation to the following items:

- Revised drawings indicating the location of primary fabric and fabric to be removed, plans should identify All original materials such as original windows and window joinery, doors and door joinery, cornices, decorative plasterwork, lath and plaster ceilings / walls, original fireplaces, original floorboards, original staircases etc
- Revised detailed drawings at a scale of 1:5 and a specification and conservation methodology to address the necessary fire upgrading work that will be required to the structure of each floor and to each of the original doors and door cases.
- The applicant was advised to contact the Fire Officer to discuss compliance with Part B.
- Drawings identifying the installation of new services (including the identification of water supply, drainage and ventilation routes and location of any proposed ventilation grilles). All new riser cupboards that are proposed to accommodate wiring etc. to be identified on a set of drawings. All new rainwater goods, SVP's and ventilation grilles shall be cast iron.
- Revised landscape proposal, to include bin store, bike store and car parking.
- Revision to floor plan to ensure that historic chimney breasts remain fully legible in historic context.
- Detailed window survey and works to be carried out.

### 3.2.2. Other Technical Reports

- Waste Management Division: no objection subject to conditions.
- Drainage Division report: no objection subject to conditions.
- Transportation Planning Division: no objection subject to conditions.
- Conservation Officer: recommends additional information to be sought

### 3.3. Prescribed Bodies

**TII:** The proposed development falls within the area subject to S.49 levy. A condition to any grant should include this levy.

### 3.4. Third Party Observations

One third party submission was received by the council, the issues raised can be summarised as follows:

- The conversion to residential is welcomed.
- Inappropriate works have been undertaken.
- Removal of wrought iron guards which were decorative 19<sup>th</sup> century.
- Concerns were raised in relation to the upgrade and repair of windows it was suggested that windows only require painting.
- Concerns were raised in relation to the replacement of a basement window at no. 39 and in relation to refuse and the responsibility for storing and arranging collection.

## 4.0 Planning History

- D0168/00 Section 57 Declaration issued by Dublin City Council on the 4th April 2001 in relation to 38 & 39 Blessington Street.
- 533/89 Permission was granted for the change of use from residential to offices
- 230/85 Permission was granted for a change of use from light industrial and residential use to office use at 37-38 Blessington St.

## 5.0 Policy Context

### 5.1. Development Plan

**Dublin City Development Plan 2016-2022**

Z8 'Georgian Conservation Area' which aims 'To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective'.

Both 38 & 39 Blessington Street are listed on the Record of Protected Structures, Ref. No. 799 & 800.

CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC2 - "It is the policy of Dublin City Council to ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest
- b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances
- c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials
- d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure
- e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works
- f) Have regard to ecological considerations for example, protection of species such as bats."

#### **Architectural Heritage Protection – Guidelines for Planning Authorities 2011**

- Section 6.8.8 - On the whole, the best way to prolong the life of a protected structure is to keep it in active use, ideally in its original use. Where this is not possible, there is a need for flexibility within development plan policies to be

responsive to appropriate, alternative uses for a structure. A planning authority should carefully consider any proposed change of use and its implications for the fabric and character of the structure.

- Section 10.4017 - Replacement of sashes or entire windows should only be permitted where the existing windows are missing; are verifiably decayed beyond repair; or are themselves inappropriate recent replacements.

**Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, Department of Housing, Planning and Local Government March 2018**

- SPPR 2 – Dwelling mix.
- SPPR 5 – Ground floor ceiling heights
- Section 4.11 - adequate levels of sunlight to reach communal amenity space throughout the year.
- Section 6.5 – Apartments and daylight provision.
- Section 6.9 Planning authorities are also requested to practically and flexibly apply the general requirements of these guidelines in relation to refurbishment schemes, particularly in historic buildings.

**5.2. Natural Heritage Designations**

The nearest Natura 2000 to the site is the South Dublin Bay and River Tolka Estuary SPA which is c. 2.7 km east of the site. The south Dublin Bay SAC is c. 4.5km to the south east of the site.

**5.3. EIA Screening**

5.4. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This a first party appeal against the decision of Dublin City Council to refuse permission. The grounds of appeal have been prepared by Downey Planning on behalf of the applicant and can be summarised as follows:

- Many elements of the original protected structure have been altered or lost due to conversion to offices in the 1980's.
- Vacancy of these units will only lead to further deterioration of the historic fabric.
- The issues raised within the reasons for refusal could have been addressed by way of further clarification.
- In response to the reasons for refusal, alterations are proposed which include:
  - The removal of car parking spaces
  - Rear open space divided into two.
  - Amended layouts to no. 39B, 38B, 38C, 39C, 38D and 39D.
- Incremental interventions have resulted in the significant loss of historic fabric
- The removal of car parking is not considered to be a significant issue given the central location of the property and the availability of public transport, go car services and Dublin Bikes.
- Proposal is the most suitable use for this Georgian Building.

### 6.2. Planning Authority Response

- None

### 6.3. Observations

- None



## 7.0 Assessment

- 7.1. This a first party appeal against Dublin City Councils decision to refuse planning permission for the change of use of no. 38 and 39 Blessington Street from office accommodation to residential. Both buildings are included on the Record of Protected Structures and are located within a Georgian Conservation Area which is subject to a Z8 zoning objective. This objective seeks to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective. The principle of residential use within such buildings is promoted and supported by the Dublin City Development Plan and is therefore acceptable in this instance.
- 7.2. DCC determined to refuse permission on the basis that the proposed development would have a detrimental impact on the primary historic fabric of the building and the legibility of the historic floor plan. It is important to note at this juncture that the applicant has submitted revised plans with the appeal which provide for an alternative landscaping scheme to the rear of the building and remove the proposed hall area off the kitchen at ground floor. These plans will be considered in the context of the appeal within the assessment below.
- 7.3. I have reviewed the information submitted and consider that the issues for consideration before the Board can be summarised as follows:
- Impact on historic fabric
  - Compliance with Apartment Guidelines
  - Open Space & Car parking
  - Appropriate Assessment
  - Other Matters

### **Impact on historic fabric**

- 7.4. As mentioned above Dublin City Council refused the proposed development for one reason which related to concerns regarding the loss of primary historic fabric and the loss of the legibility of the historic floor plan. It is contended by the Council that the works will not protect, conserve nor enhance the special architectural character of the Protected Structures.

- 7.5. In response to the reason for refusal, the applicant within the grounds of appeal, states that residential use and the construction of apartments within this historical building will ensure its continued use and is the most appropriate use for the structure. It is further stated that multiple interventions since the 1980's have resulted in a significant loss of the historic fabric and the applicant proposes to repair surviving historic elements as part of the proposed development.
- 7.6. As mentioned above revised plans have been submitted with the grounds of appeal in which it is proposed to utilise existing doorways and minimise interventions to the original walls. Alterations within these plans include the following:

#### Basement

- No. 38 A – widening of kitchen door, opening of doorway to access proposed bedroom. Note the rear basement window will be restored and not removed.
- No. 39 A – construction of window ope within front elevation to serve living room, widening of kitchen doorway and alteration to existing double doorway to provide access to proposed entrance hall.

#### Ground Floor

- No.39 B – provision of new doorway from public hall, removal of non-original doors.
- No. 38 B – provision of new doorway into proposed internal hall.

#### First Floor

- No. 39 C – removal of partition wall and repair of ceiling plaster work and widening of existing doorway from landing.
- No. 38 C – provision of doorway into internal hallway and widening of existing doorway from landing.

#### Second Floor

- No.39 D – removal of non-original partition walls, block up doorway and provision of new doorway into internal hall.
- No.38 D - removal of non-original partition walls, block up doorway and provision of new doorway into internal hall

- 7.7. It is proposed within these plans to repair and reinstate all original windows, architraves and plaster work. I note that within apartment no. 39 C there is existing stucco plasterwork which has been impacted by the insertion of an RSJ and a partition wall. It is proposed within the plans submitted with the appeal to remove this partition wall and repair this plasterwork. It is also proposed within the plans submitted to the appeal to repair and return the stair rail to its original state.
- 7.8. Windows and all window shutters will be repaired and storage and utility rooms will be located within the rear extensions of both buildings.
- 7.9. Whilst I acknowledge the concerns of the DCC Conservation Officer, I have considered the proposed alterations submitted with the appeal in the context of the Architectural Heritage Protection – Guidelines for Planning Authorities 2011 and have had regard to the extensive works and alterations that have been carried out within the building to date. Both of the subject buildings are currently vacant and in a bad state of disrepair. At the time of site inspection, I noted extensive damage from the ingress of water within the rear extension of no. 39. I also noted significant damage to ceiling plasterwork whereby RSJs and partition walls have resulted in the damage and part removal of these features. All fireplaces have been removed and blocked up and non-original doors and openings have been constructed and installed.
- 7.10. As previously mentioned the building has been used to accommodate offices since the 1980's which has resulted in the loss of a significant level of the original historic fabric and layout. Having regard to the vacant status of these buildings and the damage that has occurred since it was last occupied, I would have serious concerns in relation to the continued vacancy of these properties and the potential for further significant damage to occur if left unoccupied for any prolonged period.
- 7.11. I note that Section 6.8.8 of the Architectural Heritage Protection Guidelines identifies active use as a means of prolonging the life of a Protected Structure and whilst maintaining the original is preferable, the guidelines acknowledge that this is not always possible. Planning authorities are therefore advised to approach such change of use applications in a flexible manner.
- 7.12. The conversion of such buildings to multiple dwelling units is common practice within the city and ensures the continued use and survival of such Protected Structures. In this context I consider the change of use to apartments to be acceptable. I have

examined the plans and particulars submitted with both the application and the appeal as outlined in Section 7.6 above and consider the plans submitted with the appeal minimise interventions to the building and are a more acceptable proposal in this regard.

- 7.13. I note the concerns raised by the DCC Conservation Officer in relation to the insertion of separate hallways and additional doorway openings and note that the applicant has addressed these concerns to a large extent within the plans submitted with the appeal.
- 7.14. In relation to the floor plan, outside of reinstating this building to a single residential unit, any conversion will entail a change in floor plan to some degree. Proposed apartments will retain the overall floor layout with rooms to the front and rear of each floor, new additions will include the use of partition walls to accommodate bathrooms and external cable housing. The staircase and rail will be repaired as will all windows, of which only two are original. Window shutters are also be retained and restored. All of these historic features are in need of restoration, further decay of this building will inevitably result in the further deterioration of the historic fabric and as such the potential that these features could be lost permanently.
- 7.15. Thus having regard to the foregoing, I consider that it is reasonable in this instance to allow for a degree of flexibility in relation to the proposed works. On balance the proposed minor alterations will see two vacant protected structures in a poor state of disrepair being utilised for the use that was originally intended, albeit multiple residential units instead of one. The proposal will also provide for the restoration of the surviving historic features which are at risk of further deterioration. I therefore consider the proposed works to be acceptable and consider that these works would conserve and protect these Protected Structures from further decay and neglect.
- 7.16. The proposed development would also assist in the revitalisation of this Georgian Street bringing increased vitality to the street with new residents.
- 7.17. Notwithstanding the foregoing, I acknowledge the DCC Conservation officers concerns in relation to the housing of electrical cables and pumping works, however given the level of intervention that has occurred in relation to services I am satisfied, if the Board are minded to grant permission, that these issues can be adequately addressed by way of condition.

### **Compliance with the Apartment Guidelines**

7.18. The applicant has stated within the plans and documents submitted that 2 no. apartments proposed are below the minimum floor areas for a one-bedroom apartment, as outlined within the Apartment Guidelines 2018. Whilst I note that the Council did not have concerns in this regard, I consider it prudent to acknowledge the deficit in floor area and make reference to Section 6.9 of the said guidelines in which it is recommended that planning authorities practically and flexibly apply these guidelines particularly in relation to historic buildings. Furthermore, the deficit in overall floor area is not significant at 3 and 5sqm. Given the constraints associated with conversion of such historic buildings and having regard to the dual aspect of each unit, I consider that the proposed development would provide for a more than satisfactory living environment and as such is acceptable in terms of overall floor areas provided.

### **Open Space & Carparking**

7.19. The applicants have submitted a revised landscaping plan which provides for an area of lawn to the rear of both properties and a 2-metre granite wall dividing each lawn area. A mix of hard and soft landscaping will be provided to the rear of the open area in order to facilitate an existing right of way.

7.20. Car parking has been removed from the proposal. It is of note that parking standards within the Dublin City Development Plan operate on maximum standards, as such there is no minimum requirement for parking. In addition, carparking requirements within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018, state that in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. This policy position is particularly relevant to the appeal site given its location in a highly accessible area adjoining the city core.

7.21. Thus, given the location of the site and the availability of high frequency public transport in close proximity to it, I consider the removal of carparking from the scheme to be acceptable.

### **Appropriate Assessment**

7.22. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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 a European site. #

### **Other Matters**

7.23. I note the submission of TII which refers to the Section 49 Luas Cross City Supplementary Development Contribution Scheme and its application to the site. It is necessary to acknowledge that exemptions exist for 'works to, and change of use from residential use to commercial and vice versa, of buildings included in the Record of Protected Structures. As such, Section 49 is not applicable to the proposed development, it is not proposed to construct additions to these buildings and works will be contained within the existing building footprint.

## **8.0 Recommendation**

8.1. I recommend that permission is granted subject to the following conditions.

## **9.0 Reasons and Considerations**

9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the Z8 zoning objective, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the integrity of the Protected Structures, the amenities of the area or of property in the vicinity or the integrity of the adjacent Protected Structures. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The 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 development shall be carried out and completed in accordance with the agreed particulars.

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

2. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained buildings and facades structure and/or fabric.
- (b) Detailed proposals of all works to the protected structures, including works to the facades, internal repairs and provision of services, as well as works at basement level and consideration of adjoining buildings, shall be agreed in writing with the planning authority and shall include, inter alia, proposals regarding pre and post construction condition surveys and structural surveys, detailed survey works, and comprehensive monitoring proposals.
- (c) All works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery, and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- (d) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings), staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.
- (e) All repair works to the rainwater goods, external wall render, window frames and sashes and front entrance external doors and door cases shall be carried out in accordance with the recommendations of the accompanying conservation report on 'a repair rather than replace basis' and matching 'like for like' materials.

**Reason:** To safeguard the special architectural interest of the protected structure and ensure that the integrity of the protected structures is maintained and the structures are protected from unnecessary damage or loss of fabric.

3. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

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

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground where possible. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

5. 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 and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

6. (a) 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 the "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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery



and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

(b) The plan shall include a detailed method statement to mitigate potential nuisance including noise and dust. The plan shall outline how it is proposed to prevent spillage or deposits of clay, rubble or other debris on adjoining roads during construction management measures and off-site disposal of construction/demolition waste. The plan shall also provide details of intended construction practice for the development including access and use of Blessington Street and hours of working.

**Reason:** In the interests of sustainable waste management and to mitigate potential construction nuisance.

7. 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 Bord 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.

8. 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 completion of streets, footpaths,

watermains, drains, 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 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 determined by An Bord Pleanála.

**Reason:** To ensure the satisfactory completion of the development

---

Sarah Lynch  
Senior Planning Inspector

17<sup>th</sup> June 2020