



### Development

Mixed use development over two separate but proximate plots comprising demolition works and development of 10,719 sqm Gross Floor Area, comprised of 26 apartments and office space, along with community garden. Internal reconfiguration of the existing 2 storey mews building at No. 50 James 's Place East, alterations to no. 40 Mount Street Upper (both protected structures) . Ancillary footpaths, cycle parking, landscaping, removal of parts of stone walls, and other associated works.

### Location

0.461 ha landholding, generally bound by James's Place East and Mount Street Upper, Dublin 2.

### Planning Authority

Dublin City Council South

### Planning Authority Reg. Ref.

WEB2536/25

### Applicant(s)

Esprit Investments Limited

### Type of Application

Permission

### Planning Authority Decision

Grant Permission + Conditions

Type of Appeal	Normal Planning Appeal (3)
Appellant(s)	Esprit Investments Limited Zermatt Property Limited Patrick Denis H O'Connor
Observer(s)	None
Date of Site Inspection	23/04/2026
Inspector	Bébhinn O'Shea

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## 1.0 Site Location and Description

- 1.1. The site is comprised of two plots, north of and fronting James's Places East, which together total 0.461 ha. The plots are more easily identifiable with reference to properties on Mount Street Upper. Plot A, to the west, is 0.125 ha and is largely to the rear of nos. 47 to 50 Mount Street Upper. Plot B, to east, is 0.336 ha, and largely to the rear of nos. 37 to 43 Upper Mount Street and includes no. 40 Mount Street Upper.
- 1.2. Plot A contains one two storey mews building at no. 50 and otherwise is in use for surface parking, accessed through different entrances on James's Place East. Plot B includes a two storey office block on the frontage of James's Place East at nos. 38-43, and a further single storey stores building to rear of same. It also has surface parking within.
- 1.3. The north side of James's Place East otherwise contains some mews type buildings at numbers 44-46, 52, 53, and access to carparking to the rear of properties on Mount Street Upper. Opposite to south on James's Place East is a 3-4 storey school complex of Scoil Chaitríona and Catherine McAuley National School along with an office block up to 8 stories in height (including podium) which forms part of a larger complex called Miesian Plaza. These are at an angle to James's Place East.
- 1.4. At the eastern end of James's Place East is a 4 storey over basement office building (which fronts onto Herbert Street at no. 30). To the east of Plot B there is an access laneway to the rear of that building and also serving the rear of nos. 36- 40 Upper Mount Street. At the western end of James's Place East is ESB Head office. Mount Street Upper onto which the site backs is comprised of terraced 3-4 storey over basement dwellings of Georgian style which are Protected Structures.
- 1.5. James's Place East has a footpath along the southern side mostly approx. 1.4m in width. There is a very intermittent footpath on the north side as far as no. 47 James's Place East, which due to the punctuation by vehicular access points, appears of limited use. While there is a continuous pay and display parking area painted onto the road surface all along the south side, parking is precluded along the frontage of the school by the presence of bollards. Surface marking on the carriage way of

painted circles reflects the presence of the schools adjacent. On the north side, there are pay and display stretches in front of 45-47 and former nos. 38 to 42.

1.6. There are Rights of Way indicated from James's Place East at nos. 36, 43, 47, 50.

## 2.0 Proposed Development

2.1. The development (inclusive of revisions at FI stage) will consist of:

- Demolition:

- 2 No. storey office building and single storey rear stores at Nos. 38-43 James's Place East,
- shed to the rear of No. 40 Mount Street Upper and
- single storey rear extension attached to the mews building at No. 50 James's Place East;

- Construction:

Mixed-Use Development (10,719 GFA) 70% commercial, 26% residential and 4% community use, across Plot A and Plot B as follows:

- Plot A: 2,384 sqm residential development (i.e. 2,524 sqm GFA less 140sqm ESU office unit at ground floor) consisting of 26 apartments including the reconfiguration of the existing 2 No. storey mews building at No. 50 James's Place East. Part 2 to Part 5 storeys in height.
- Plot B: Part 1 to Part 4 storey building (with additional roof/plant level) of office accommodation. (For clarity, community/cultural space forming part of original application was omitted at FI stage). Also community garden 16 sqm.
- Alterations at no. 40 Mount Street Upper (Protected Structure): 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.
- 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.

## 2.2. Key Figures:

Site Area	0.461 Ha Plot A: 0.125 ha; Plot B: 0.336 ha
Total Demolition Gross Floor Area	1,661 sqm comprised of: 2 No. Storey Office Building 1,412 sqm; Single Storey Rear Stores 215 sqm; Shed 17 sqm; Mews Building Single Storey Rear Extension 17 sqm
Total Proposed Gross Floor Area	10,719 sqm (Plot A: 2,521 sqm; Plot B: 8,198 sqm)
Site Coverage	60%
Plot Ratio	2.33
Building Height	Plot A: Part 2 storey – part 5 storeys. Height at parapet 27m Plot B: Part 2 storey – part 4 storeys (set back 4 <sup>th</sup> storey) plus set back roof/plant Roof/plant level to height 22m All over basement level
Net Residential Density of Plot A	220 No. Units Per Hectare
Public Open Space	16 sqm
Communal Open Space serving apartments	287 sqm

## 2.3. The application is accompanied by the following (not exhaustive)

- Architectural design statement
- Demolition justification report

- Architectural heritage impact assessment report and (addendum report).
- Landscape and visual impact assessment report
- Verified views and CGIs
- Housing quality assessment
- Daylight and sunlight assessment report
- Ecological Appraisal report
- Flood risk assessment
- Appropriate assessment screening report.
- Climate action energy statement
- Building lifecycle report
- Operational waste management plan
- Outline construction and demolition waste management plan
- Outline construction and environmental waste management plan
- Water supply and wastewater management report
- Mobility management plan

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The PA decided to issue a request for Further Information on 2<sup>nd</sup> August 2025 as follows (summarised):

1. Clarification of the application's calculation in terms of the range of uses on the site to comply with the Z10 lands.
2. Concerns re. adequacy of measurement of carbon emissions both embodied and operational, in terms of demolition.
3. Revisions to height scale and massing of office block on plot B
4. Preference for ground floor location of arts/cultural/community use in plot B

5. Refinement of design of residential building on Plot A
6. Conservation
  - (a) In relation to Plot A
    - (i) Omission of proposed ground floor window in the apartment to the rear of No. 49 Plot A
    - (ii) Clarify need for 'vehicular' access to the rear of Nos. 50 / 49 and Nos. 48 / 47, revised drawings with reduction in width. Clarification of need for additional boundary and entrance to each garden to ensure privacy from the shared access route, and for need for additional privacy boundary between the garden to the rear of No. 47 and the secondary escape route
    - (iii) Drawings and clarification of sliding gates indicated to the set-back residential apartment entrance. Whether similar gates are required to the entrance to the Mews Building. Preference is for timber gates
  - (b) Mews Building no 50: Plans and details of proposed conservation repairs
  - (c) In relation to commercial Plot B
    - (i) Garden space between the Protected Structure and the proposed development on Plot B to reflect extant subdividing boundary to the rear of Nos. 48 and 49 Mount Street Upper.
    - (ii) Drawing of the slim vertical 'fins' to the bays that reflect the historic plots divisions on Plot B
    - (iii) Revised location for community space at ground floor level in the south east corner of the building, animating rear laneway.
  - (d) In relation to Plots A and B
    - (i) Drawings and photographs of surviving historic boundary walls
    - (ii) Historic plans of no. 40 at basement and ground floor to demonstrate the benefit of platform lift, rear link from ground floor.
    - (iii) Clarification of planning status of existing connections between Nos. 39 and 40 through the party wall.

- (iv) Detailed drawings of platform lift
- (v) Detailed drawings of rear gantry link
- (vi) Additional details and levels dimensions on revised drawings.

3.1.2. On 5<sup>th</sup> December 2025 the PA granted permission for the proposed development, as revised by Further Information, subject to 18 No. Conditions.

1.	Plans and particulars
2.	Development Contributions
3.	Supplementary Development Contributions (Luas Cross City)
4.	Bond
5.	Transportation planning requirements.  (Detailed bespoke condition, highly relevant to grounds of appeal. Please see assessment below for full details)
6.	Detailed conservation requirements.
7.	Drainage Requirements
8.	Environmental Health requirements
9.	Noise Control
10.	Hours of building works
11.	Roadways to be kept clear of debris and cleaned.
12.	Compliance with requirements of Codes of Practice from Drainage, Roads Streets & Traffic Department and Noise/Air Pollution
13.	Agreement of external materials, colours, textures and submission of samples
14.	Landscaping
15.	Electronic communication/ Digital connectivity
16.	Part V Housing

17.	No additional development above roof level
18.	Naming

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

##### 3.2.1.1. First planning report

- The proposed uses of residential, office and community use are permissible uses under the Z10 zoning.
- Noted that the application lifecycle assessment did not reflect the whole life cycle assessment model of evaluation, which offers a more complete measurement method of all carbon emissions, both embodied and operational. The report also did not demonstrate that the existing structure could not be retained and reused.
- The site coverage of 60% and the plot ratio of 2.82 was considered to accord with table 2 of Appendix 3 of the DCDP and the residential density of plot A is 220 units per hectare which accords with table 1 of Appendix 3.
- Significant scale on surrounding sizes was noted however proposed height of the office development on plot B was considered to be out of context with protected structures. The height of Plot A was considered to be more appropriate however the design of this block less resolved and requiring refinement.
- View 7 of the visual impact assessment was considered to demonstrate an adverse impact on the historic Georgian core. FI necessary in relation to height scale and massing of office development Plot B and the articulation of design on Plot A
- Separation distances between protected structures and proposed buildings are 16m or more however the quantum of open space surrounding the office block is a concern.

- Report of the Conservation division and items raised are noted and considered reasonable for FI, with the exception of the height of the building on Plot A which the planning report considers acceptable.
- Residential Amenity: Noted proposed residential units mostly meet the minimum standards in the Apartment Guidelines 2023. 16sqm public open space is provided in Plot A and a financial contribution is offered.
- A Daylight and Sunlight Assessment prepared by 3D Design Bureau is noted, and analysis within of the impact of the proposed development on adjoining properties in terms of VSC, APSH/WPSH and Sun on Ground to amenity spaces. The report considers aspects in more detail but generally notes that the proposed development would have some impact on the surrounding sites however this needs to be balanced with the benefits of the proposed development in redeveloping a currently underdeveloped site, the provision of new offices, residential and community space.
- Community/cultural use: 688sq. metres of arts/cultural/community use, 5% of the total gross floor area was proposed in the original application and considered acceptable however a ground floor location would be more appropriate.
- The reports of the Transportation division are noted including:
  - quantity, layout and distribution of cycle parking is generally considered acceptable to this division.
  - the non-provision of car parking is acceptable subject to the provision of adequate cycle parking. The public open space (16 sqm) to the front of the refurbished mews at 50 James's Place East is not suitable for taking in charge.
  - A lack of information has been provided regarding access proposals and a number of concerns arise; headroom to accommodate emergency access, auto track analysis, turning facilities, set-down loading facility.
  - Servicing, Delivery and Access Strategy for the overall development should be provided.

- The recommendation of the Transportation to seek Further Information is noted.
- Need for AA or EIA screened out
- Further Information was recommended as per Item 1-6 at 3.1.1 above.

### 3.2.1.2. **Second planning report**

- The second planning report considers the response to the FI request.
- The submission was deemed not to constitute significant further information in accordance with Article 35 of the Planning Regulations.
- Re. Item 1: It notes that the total site area for the Z10 lands within this application is 0.413Ha, 26% residential and 70% commercial.
- Re. Item 2: It states that CORA's report adopts a whole life cycle assessment (WLCA) approach, evaluating both embodied and operational carbon impacts over a 60-year study period. All retention or partial-retention scenarios are structurally impractical, high-risk, cost-prohibitive, and environmentally counterproductive - resulting in higher whole-life carbon emissions when compared to a purpose-built replacement. Accordingly, demolition is the only viable option.
- Re. Item 3: It notes the Plot B building has been reduced by one floor, a three-storey 'shoulder' height has been introduced, subservient to the rear parapet of the Protected Structures, with setback 4<sup>th</sup> floor and further set back plant level (increased in height from 2m to 3m). This is considered acceptable along with additional increase in separation distance. Dimensional anomalies on first and second floor plans are noted to remain and may be corrected by condition.
- Re. Item 4: The omission of the internal community space is noted as the overall quantum of development falls below the relevant threshold. The external community space is proposed to be retained for use by the local community and this is welcomed.

- Re. Item 5. The alterations to the elevations of Plot A are noted. While noting the Conservation division concerns regarding height, the planning report considered the proposed block A sits comfortably within its surrounding context.
- Re. Item 6: The report concludes that the response to FI substantially addressed the conservation division's concerns in the further information response.
- Item 7: The report states that "due to a clerical error the further information request number 7 was not included in the Managers Order and therefore a response to this issue was not lodged. It is considered that the further information concerns that were raised by the Transportation Division can be conditioned and dealt with through compliance."
- The report concludes that the proposed mixed use scheme accords with the zoning objective of the site, respects the adjoining protected structures whilst intensifying the use of this centrally located site in line with national, regional and development plan policy, would not materially contravene the policies and objectives of the DCDP, would accord with proper planning and sustainable development. A grant of permission is recommended.

### 3.2.2. Other Technical Reports

- **Drainage:**

No objection subject to conditions

- **Roads and Transportation:**

**11/08/2025** Requests FI in relation to 1) Improvements to James's Place East, including retaining it as a standard two way road, providing a 1.8 m footpath, retention of on street parking where possible, new hard landscaping/tree planting 2) Applicant to request a letter of consent for these works, 3) Access requirements for Plot B including headroom for emergency access, autotrack analysis, turning facilities, set-down/loading facility. 4) Servicing Delivery and Access Strategy

**27/11/2025** Notes that FI requested by R&T did not form part of FI request therefore response does not address same. Recommends issues be addressed by condition. (Largely as per Condition 5.)

- **Conservation**

**15/08/2025** The report sets out the relevant policy of the DCDP, planning history, and receiving environment. The report expresses concern with the scale of both blocks of the proposed development, relationship with 'parent' protected structure, impact on historic boundary walls and other matters. Detailed Further information is sought. (This is largely as per Item 6 of the request for FI with the exception of the request for a reduction in scale of the residential element of the development on Plot A which was not included).

**28/11/2025** The response to Further Information is considered in detail. Conditions are recommended, including a reduction in the height of Plot A .

- **EHO**

Recommends conditions in the event of a grant, for air/noise pollution mitigation, during construction and operational phases.

### 3.3. **Prescribed Bodies**

**TII:** No observations. Section 49 Contribution for Light Rail to apply if appropriate

### 3.4. **Third Party Observations**

- Adrienne Cheasty, owner of 45 Upper Mount St. Objection on grounds of traffic congestion, loss of privacy, noise, blocking of light and air, buildings out of scale with the Georgian surrounds.
- Zermatt Properties Limited submission in support of the application requesting consideration be given to extent permission on their lands 3414/24
- Kelly Cogan Architects on behalf of Patrick O'Connor, owner of no. 48 Upper Mount Street. Objecting on excessive height and scale, impact on residential

amenity, inappropriate conservation response in terms of conservation area, Georgian terraces/plots, mews lane.

## 4.0 Planning History

- **4899/23** Application for demolition of the existing buildings at Nos. 38-43 James's Place East and the construction of a part 4, part 5 part 6 and part 7 storey hotel building with 300 bedrooms to the rear of Nos. 37-43 Mount Street Upper fronting onto James's Place East. Change of use of No. 38, 39 and 40 Mount Street Upper from office to hotel use, associated changes to layout, glazed link/bridge, platform lifts, provision of a 180 sqm multi-use school space, 130sqm cultural space. Change of use of Nos. 37 and 41 Mount Street Upper from office to residential (8 apartments). Conversion of No. 50 James's Place East to residential dwelling. Construction of a 3 storey residential building with 3 apartments to the rear of no. 50 James's Place East. Provision of park within 33-34 Mount St. Upper. Ancillary works (landscaping cycle parking, boundary treatments, infrastructure etc)

**Split decision** – REFUSE permission for demolition of existing buildings at Nos. 38-43 James's Place East, construction of hotel, glazed link, platform lift, multi use school space and cultural space. GRANT permission for change of use of Nos. 37 and 41 Mount Street Upper from office to residential (8 apartments), conversion of No. 50 James's Place East to residential dwelling, construction of a 3 storey residential building, provision of park, ancillary works

Decision appealed to An Board Pleanála and upheld, ref. 319168-24.

- **3414/24** Adjacent site 45-46 James's Place East  
Permission granted for the refurbishment and extension of the existing office building, increasing footprint from 605sqm to 1254sqm, and increasing its height from 2 to 3 storeys, retaining vehicular access to rear, associated cycle parking and works.

## 5.0 Policy Context

### 5.1. National policy

- National Planning Framework – First Revision April 2025

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 hereafter referred to as “the Compact Settlement Guidelines”.
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023 hereafter referred to as ‘the Apartment Guidelines 2023’<sup>1</sup>.
- Urban Development and Building Heights Guidelines for Planning Authorities, 2018, hereafter referred to as the ‘Building Heights Guidelines’.

## 5.2. Development Plan

The relevant plan is the Dublin City Development Plan 2022- 2028 (DCDP).

- 5.2.1. Most of the subject appeal site is zoned ‘Z10’ - Inner Suburban and Inner City Sustainable Mixed-Uses (see Map E) under the Dublin City Development Plan 2022-2028, the zoning objective of which is “To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses”. Residential, community use and office are permissible uses under this zoning. No. 40 Mount Street Upper and some other modest areas of Plot B, are zoned Z8 Georgian Conservation Areas where the objective is “To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.” Residential and office are permissible uses under this zoning. Community facility is Open for Consideration.<sup>2</sup>

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<sup>1</sup> I note the publication of “The Design Standards for Apartments, Guidelines for Planning Authorities 2025 in July 2025. I highlight to the Commission that this planning application was submitted to Dublin City Council on 30/6/2025. Circular NSP 04/2025 which accompanied the Apartment Guidelines 2025 states: “The revocation of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023 (and all preceding updates) does not apply to current appeals or planning applications, i.e. that were subject to consideration within the planning system on or before the 8th of July 2025. These will be considered and decided in accordance with the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023, or as set out below, where applicable.”

<sup>2</sup> An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area. DCDP p528

5.2.2. **Chapter 3** relates to **Climate Action**

**CA6 Retrofitting and Reuse of Existing Buildings** To promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible. See Section 15.7.1 Re-use of Existing Buildings in Chapter 15 Development Standards.

5.2.3. **Chapter 4** relates to the **Shape and Structure of the City**. Relevant policies within include:

SC10: Urban Density,

SC11: Compact Growth,

SC12: Housing Mix,

SC13: Green Infrastructure,

SC14: Building Height Strategy

SC19: High Quality Architecture,

SC20: Urban Design,

SC21: Architectural Design.

5.2.4. **Chapter 5** relates to **Quality Housing and Sustainable Neighbourhoods** and includes the following relevant Policies and Objectives:

QHSN2: National Guidelines,

QHSN6: Urban Consolidation,

QHSN10: Urban Density,

QHSN11: 15-Minute City,

QHSN14: High Quality Living Environment,

QHSN36: High Quality Apartment Development.

5.2.5. **Chapter 11** relates to **Built Heritage and Archaeology**

BHA2 – Development of Protected Structures,

BHA9 – Conservation Areas,

BHA10 – Demolition in a Conservation Area,

BHA11 – Rehabilitation and Reuse of Existing Older Buildings,

BHA14 – Mews.

5.2.6. **Chapter 12** relates to **Culture**

**Objective CUO25:** SDRAs and Large Scale Developments : Requires that large scale developments above 10,000 sq. m. in total area\* must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage.....

5.2.7. **Chapter 14** relates to **Land Use Zoning**.

See 5.2.1 above.

5.2.8. **Chapter 15** relates to **Development Standards** and contains various relevant content and guidance including

15.2.3 Planning Application Documentation - Planning Thresholds

15.7.1 Re-use of Existing Buildings

15.8.6 Public Open Space Requirements for Residential Development: 10% for Z8 and Z10 lands.

15.8.7 Financial Contributions in Lieu of Open Space

15.13.5 Mews development

- 5.2.9. **Appendices:** The DCDP contains several appendices including the following which are of most relevance

Appendix 1: Housing Strategy,

Appendix 3: Achieving Sustainable Compact Growth Policy for Density and Building Height in the City,

Appendix 4: Development Plan Mandatory Requirements,

Appendix 5: Transport and Mobility: Technical Requirements,

Appendix 6: Conservation.

Appendix 16: Sunlight and Daylight.

### 5.3. **Natural and Built Heritage Designations**

- 5.3.1. The application site is located c. 2.2 km west of South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA and c. 5.1 km southwest of North Dublin Bay SAC and North Bull Island SPA. The Grand Canal NHA is approximately 175m to the south east
- 5.3.2. There are no Recorded Monuments or Sites in the immediate vicinity.
- 5.3.3. 33-54 Mount Street Upper are on the NIAH and Protected Structures in the DCDP. The site is also within a Conservation Area in the DCDP (note this differs to an Architectural Conservation Area).

## 6.0 **EIA Screening**

- 6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

There are three appeal submissions:

#### 7.1.1. First Party Appeal. Thornton O'Connor on behalf of Esprit.

- This appeal relates to Condition no. 5 alone. The appeal states that this condition requires alterations to James's Place East, including the provision of a new footpath and accommodation of two-way traffic, which cannot be achieved within the existing carriageway width. Compliance with this condition would necessitate setting the permitted buildings back by approximately 1.8 metres from the approved building line. This set back would result in material and unacceptable impacts on the permitted development including:
  - Non-compliance with established and approved separation distances
  - Reduction in length and integrity of historic garden plots
  - Potential for materially altered daylight and sunlight impact
  - Jarring urban design solution due to relationship with existing building line
  - Conflict with the objectives and recommendations of the Conservation Section of DCC which supported the re-instatement of historic garden walls and the retention of the existing cobbled gutter and laneway character.
- Given the development will remove 57 on-site parking spaces, and reduce car movements by 85%, the most appropriate solution is the provision of a shared surface for the portion of James's Place East directly abutting the site.
- The appeal notes that condition 5 was attached to address the omission of this matter, raised by the Transport department in item 7 of its report, in the Further Information request issued. The appeal contains a response to Item 7 (which forms the basis of Condition 5 of grant of planning but has different wording. )
- The applicant seeks the omission of Condition No. 5 as currently drafted and requests that a shared surface treatment to the carriageway be required by condition if the Commission deems lane improvements to be necessary.

7.1.2. Third Party appeal Kelly Cogan Architects on behalf of Patrick O'Connor 48 Upper Mount Street:

- The property is in office use but it is intended to bring it into single residential family use and the development will impact significantly on residential amenity and property values.
- The development is over scaled and of excessive height and density
- Height of plot A should be reduced
- The development Materially Contravenes the DCDP in terms of BHA2: Development of Protected Structures parts a) b) c) d) f), BHA 9 Conservation Areas, BHA 14 Mews and Sections 15.13.4 Backland Housing , 15.13.5 Mews, 15.12.5.1 Design and Layout , 15.13.5.2 Height Scale and Massing , 15.13.5.3 Roofs. The application has not been treated as a material contravention.
- The recommendation of the DCC Conservation officer was to reduce the block to three stories adjacent the historic mews building at no. 50 James's St. East and the remainder of the block to be reduced to three storey with set back 4<sup>th</sup> storey.
- The conservation response is inappropriate. The architectural ensemble of the mews lane, gardens, rear elevation of the main house and their features will be eradicated. The proposal does not integrate and is monolithic. The development will erase the original rear garden boundaries.
- The urban context of the north site of James Place East survives more recent infill development along the laneway are generally two storeys in height. Although the original mews structures along James's Place East have largely been replaced, the existing buildings retain the historic proportionate relationship.
- Only one of the verified views, V7, examines the impact on James's Place East. This shows a considerable adverse impact upon the surviving historic fabric.
- The development in contrary to Section 4.5.4 of the DCDP in terms of building height.
- The Architectural Heritage Protection Guidelines Section 6.8.6 recommend against the infilling of gardens of historical interest of protected structures and at Section 13.5.1 and 13.5.2 refer to interrupting the relationship between a

protected structure and its ancillary buildings or features. Re-integration of gardens on Upper Mount Street is a straightforward process.

- The impact on daylight and sunlight to no. 48 Mount Street Upper has not been addressed.
- The decision by DCC is inconsistent with previous decisions e.g. WEB2703/25 where the development was restricted to 3 stories.
- There is inadequate dimensional information on drawings

#### 7.1.3. Third Party Appeal Zermatt Property Ltd owners of 45/46 James's Place East

- This appeal relates only to the inclusion of the residential courtyard and balcony openings within the development adjoining the eastern boundary of 45/46 James's Places East. No. 45/46 contains a one and two storey commercial building, and has a live permission under 3414/24 for an extension to three stores. Regard has not been had to this extant permission.
- The daylight and sunlight assessment does not incorporate the permitted third storey and therefore the baseline is incorrect.
- It is suggested that kitchen windows could be reduced, diverted or removed by an internal rearrangement. The residential courtyard/lightwell could be relocated. The solid party wall being carried up to parapet level would be supported this appellant.

#### 7.2. **Planning Authority Response**

- A joint submission from DCC was received from the Planning and the Transportation sections. The first part (Planning) requests conditions requiring S48 contribution, Section 49 contribution, bond, social housing, naming and numbering.
- The second part (Transportation) relates to condition 5(b). The submission states that condition 5(b) allows flexibility for a compromise solution, in consultation with DCC. It does not necessarily intend that the permitted building lines would be set

back to achieve the works. It reiterates that shared service treatment at Plot B is not supported and that the street is required to continue to operate as a standard vehicular road with segregated carriage way and footway. The street is expected to continue as a regular vehicle set down area for the adjacent school and expected to need to accommodate setting down and reversing of vehicles associated with the permitted office. The submission notes that planning permission for works on the public road does not confer the legal right to undertake such works. A road opening licence is required, and DCC must be agreeable to the works. Previous internal reports are attached.

### 7.3. Observations

None

### 7.4. Further Responses

7.4.1. Response from Thornton O'Connor on behalf of applicant Esprit to third party appeals.

- The response states that it is not intended to submit a response to Mr. O'Connor's appeal as it does not raise any new issues which have not been assessed.
- In relation to Zermatt appeal, it acknowledges that the extant permission 33414/24 at 45/46 James's Place East was not included in the daylight and sunlight assessment. The development the subject of this appeal has an internal courtyard at the eastern boundary potentially affected by the massing permitted at these adjacent lands. An alternative design option is submitted for consideration. This marginally reduces the gross floor area of Plot A and increases the courtyard area and extent of glazing at the courtyard. This revision may be secured through a condition of planning.
- The submission notes that a full Daylight/Sunlight analysis on this arrangement has not been possible but a technical statement is provided which concludes that the revised design would mitigate the impact of the adjacent permitted

development at 45/46 James's Place East, securing BRE compliance for the vast majority of rooms; one additional room falls below the BRE compliance threshold.

- The submission highlights that the Planning report of DCC noted the performance of the proposed units was considered acceptable, when reading the BRE guidance with the required flexibility, given the urban infill nature of the site.
- The grant of planning permission should be upheld.

7.4.2. Further response from Kelly Cogan Architects on behalf of Patrick O'Connor 48 Upper Mount Street.

- This submission notes that the applicant's response to the appeal does not respond to Mr. O'Connor's appeal grounds however the full decision is under appeal.
- The applicant has acknowledged that the daylight and sunlight assessment did not consider the extant permission 3414/24, and did not achieve full BRE compliance, and that a full daylight and sunlight assessment of the proposed alternative arrangement has not been submitted. No. 48 Mount Street Upper is impacted by the proposed development and the impact has not been assessed other than on ground surface south of the rear wall of the property. There are many factors present tending towards a major adverse impact as set out in the BRE Guidelines. Other aspects of Mr. O'Connors grounds of appeal are reiterated.

7.4.3. Further response from Zermatt on response of applicant detailed at 7.4.1 above.

- Welcomes incorporation of extant permission into the baseline assumptions.
- Expresses concerns regarding the reliability of the design statement submitted as part of the applicant's response. Improvement in Spatial Daylight Autonomy (SDA) for room A-1-04\_LKD is difficult to reconcile with additional massing on adjoining lands where window position has not altered.
- Concerns that positioning of balcony fenestration on block A adjacent to the shared eastern boundary increases the likelihood of reduced daylight availability.

- Expresses conditional support subject to a condition being attached requiring (i) provision of a solid, permanent, opaque wall to parapet level at the eastern boundary of the lightwell of Block A and (ii) removal of residential balcony fenestration at all levels adjoining the eastern boundary – three balcony windows.

## 8.0 **Assessment**

8.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeals, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development (including demolition, zoning objectives and requirement for community, arts and culture space)
- Density and Height
- Conservation response
- Standard of proposed residential amenity
- Impact on amenities of adjoining properties
- Carriageway treatment on James's Place East/Condition 5.

### 8.2. **Principle of Development**

8.2.1. I am satisfied that the applicant has justified the proposed demolition of buildings on site, particularly the 2 storey office building, as set out in the Report on the Demolition Justification & Whole Life Carbon Cycle submitted in response to Further Information. The analysis sets out that retention options are structurally impractical, high-risk, cost-prohibitive, and environmentally counterproductive - resulting in higher whole-life carbon emissions when compared to a purpose-built replacement. Accordingly, demolition is the only viable option.

- 8.2.2. I have considered the principle of the proposed development having regard to the zoning objectives of the site. Most of the subject appeal site is zoned 'Z10' - Inner Suburban and Inner City Sustainable Mixed-Uses (see Map E) under the Dublin City Development Plan 2022-2028. Residential, community use and office are permissible uses under this zoning. No. 40 Mount Street Upper and other modest areas of Plot B is zoned Z8 Georgian Conservation Areas. Residential and office are permissible uses under this zoning. Community facility is Open for Consideration. The community element is, following FI amendments, limited to a garden area. I am satisfied that this proposed use is compatible with the overall policies and objectives for the zone, and would not have undesirable effects on the permitted uses. I therefore consider all proposed uses acceptable in principle.
- 8.2.3. In relation to the Z10 lands, the DCDP requires that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses. The response of the applicant to FI sets out that 70% of the relevant lands are Commercial, 26% residential and 4% Community (garden area). It is stated that the garden area will function as an outdoor learning and sensory environment for use by the adjoining schools, thereby providing a meaningful community benefit. Subject to satisfactory access arrangements, I am satisfied that this area of garden may be accepted as community use (and not as within the commercial/office garden use), and that therefore the mix on Z10 lands is appropriate. I also note the Planning Authority was satisfied with this response in relation to the mix on Z10 lands.
- 8.2.4. Objective CUO25 of the Dublin City Development Plan 2022–2028 is as follows:
- All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area\* must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage. The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided*

at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need.

*\*Such developments shall incorporate both cultural/arts and community uses individually or in combination unless there is an evidence base to justify the 5% going to one sector.*

8.2.5. Provision for such space was within the scheme as initially submitted. The scheme was reduced at FI stage and the Gross Floor Area now proposed is 10,719 sqm. The internal community floor space was omitted. The applicant has made the case that provision of 5% of total floor area is not now required as:

- The Gross Floor Area is reduced to 10,719sqm (Nett Floor Area 7,867sqm and the Gross Floor Area of the office development is 8,198 sqm) .
- There is planning precedent (including DCC Ref. 6050/24 / ABP Ref. 319847–24), that a net floor area of less than 10,000 sqm is considered subthreshold for the application of Objective CUO25.
- The Apartment Guidelines 2025 SPPR 6 state: “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.”

8.2.6. With regard to the above three points my view is as follows:

- The basis of the applicant’s reliance on Nett Floor Area or Gross Floor Area of office use alone is unclear. The wording of CUO25 is specific: *large scale developments above 10,000 sq. m. in total area*. There is no reference to nett floor area, or type of use (office/residential).
- With regard to DCC Ref. 6050/24 / ABP Ref. 319847–24, I note that the 5% cultural space as per CUO25 was not applied however I do not see a clear basis for this within documentation which I can conclude is relevant to, or acts as precedent for, the subject development.
- The Apartment Guidelines 2025 are not applicable to this case (see Section 6 Policy Context above in this report).

- 8.2.7. I therefore conclude that CUO25 applies to the proposed development, and that, given the specific wording of this objective “All .... large scale developments above 10,000 sq. m. in total area” and “must provide” (emphasis added), the failure to provide same is a Material Contravention of CUO25 of the DCDP.
- 8.2.8. However, having regard to the modest exceedance of the 10,000 sqm threshold, the provision of community garden space with the proposed development, and the change in policy within SPPR6 of the Apartment Guidelines 2025, I consider that a Material Contravention of the Plan would be appropriate having regard to Section 37(2)(a) of the Act. I note that the Planning Authority did not consider that a Material Contravention arose, therefore the requirements of Section 37(2)(b) of the Act do not apply.

### 8.3. Density and Height

- 8.3.1. I have considered the proposed development in light of Appendix 3 of the DCDP, Achieving Sustainable Compact Growth Policy for Density and Building Height in the City. The site is within the City Centre and Canal Belt where a nett density range of 100/250 units per ha apply as Per Table 1. The proposed nett density in Plot A is 220 units per ha.
- 8.3.2. As per Table 2 for the Central Area, the Indicative Plot Ratio is 2.5 -3.0. The Indicative Site Coverage is 60-90%. The plot ratio proposed is 2.33. Proposed site Coverage is 60% and therefore both within acceptable ranges.
- 8.3.3. I do not consider that the height or density of the proposed development is greater than that of the prevailing pattern of development, which is dominated by recent large office developments. The height of Block A and B broadly align with the parapet heights of Protected Structures on Mount Street Upper. There are significant higher buildings in the vicinity in the form of Miesian Plaza, ESB Headquarters and No. 30 Herbert Road. As such a full assessment against Table 3 of Appendix 3 is not required.
- 8.3.4. Appendix 3 continues that “proposals for increased height within key sensitive areas of the city including .... the historic Georgian core and squares and the canals etc.... must demonstrate that they do not have an adverse impact on these sensitive environments and that they make a positive contribution to the historic context.” This is considered in the assessment below.

## 8.4. Conservation response

8.4.1. Policy BHA9 of the DCDP relates to Conservation Areas and is

*“To protect the special interest and character of all Dublin’s Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.*

*Enhancement opportunities may include:*

- 1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.*
- 2. Re-instatement of missing architectural detail or important features.*
- 3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.*
- 4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.*
- 5. The repair and retention of shop and pub fronts of architectural interest.*
- 6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.*
- 7. The return of buildings to residential use.*

*Changes of use.....”*

8.4.2. The following assessment considers whether the proposed development contributes positively to the character and distinctiveness of the area, and takes opportunities to protect and enhance the character and appearance of the area and its setting.

### **Scale and massing – relating to Mount Street Upper**

8.4.3. Plot A of the proposed development is a part 2 storey, part 4 storey and part 5 storey building, stepping up in scale west to east when viewed on James’s Place East and also stepping further to north towards the Mount Street Upper terrace at no. 48 and

again at no. 47. Section EE demonstrates the relationship of this building to the protected structures on Mount Street Upper, with roof height of 27m compared to parapet height opposite on no. 49 Mount Street Upper of 25.491m. This is contrary to the general approach set out in the DCDP that mews development should be subordinate to the height of the main structures. I consider that the omission of the 4<sup>th</sup> floor (5<sup>th</sup> storey) would be appropriate in this regard, allowing for a max parapet height of 23.625m, subservient to that of Mount Street Upper. I also consider the appropriate height further below in relation to the mews streetscape on James's Place East.

- 8.4.4. Plot B of the proposed development, following FI revisions, is a 4 storey over basement building, with plant/lift overrun above at roof level. Level 3 is stepped back from lower levels 1&2 on the north side, and the roof/plant level is set back further. This creates a three-storey 'shoulder' height at 23.45m, lower than the parapet height of 25.491m on no. 40 Mount Street Upper. In terms of the Protected Structures on Upper Mount Street, I concur with the view of the Planning Authority and I consider this relationship and comparable scale acceptable; it does not overly compete with the form of those structures. It is a more moderate intervention than other modern additions in the vicinity, which already have a significant bearing on sense of scale in the area.
- 8.4.5. Adequate separation distances are maintained between the proposed development and existing protected structures to respect their setting. Having regard to this distance and the indicative subdividing boundary line submitted in response to FI, I am satisfied that the proposed development does not preclude the return of units on Mount Street Upper to residential use.

#### **Scale and massing – relating to James's Place East**

- 8.4.6. I note Policy BHA 14 Mews of the DCDP is *To promote the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core, for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible, and that removes inappropriate backland car parking areas.* I note that the proposed development meets some of these objectives in terms of restoring historic fabric in places, removing a degree of backland parking (noting rights of way exist) etc. An assessment of scale follows. While the focus of

this policy is on residential use, I have previously set out that having regard to the zoning objectives, office use also proposed is acceptable in principle.

- 8.4.7. I also note Chapter 15 Development Standards provides guidance on mews development. Section 15.13.5 in particular refers to mews development, including new mews, and contains guidance on achieving privacy, amenity space, preventing overlooking, achieving appropriate distances from Protected Structures, acknowledging building plots, maintaining building line where possible. It states that in general development will generally be confined to two-storey buildings but that in certain circumstances, three-storey mews developments will be acceptable. Proposals for an additional set back level may be considered on a case by case basis. The guidance notes policy for increased residential densities in proximity to the city centre.
- 8.4.8. In relation to Plot B, no historic fabric remains in terms of the built structures or building line of the mews development which once existed at nos. 37 to 43 James's Place East. A more modern 2 storey office building occupies this space, and the street is terminated by a 4/5 storey building adjacent. In this regard, having determined above that the proposed scale is appropriate in relation to protected structures on Mount Street Upper, and noting similar scale adjacent, I consider that there is scope for height of four stories (and set back roof level) as proposed, without detracting from the character of the area.
- 8.4.9. I consider that a different scenario presents on Plot A, where the original fabric remains in terms of the mews building at no. 50 and space to its front, and the shared party wall to front with no. 49. I note that the proposed development re-instates a front boundary enclosure for no. 50 and 49, restoring architectural features in the no. 50 structure and imitating the historical arrangement with a modern interpretation at nos. 50 and 49. Other than the building line and acknowledgment of historical plot widths in the architectural treatment, however, that is where the reflection of the historical mews arrangement ends. However, given the modern redbrick intervention at no. 46 James's Place East (with permitted increase in height to 3 storeys under 3414/24) and more recent blockwork and shuttered corrugated steel shutters at nos. 47 and 48, and the lack of remaining historic built fabric, I consider the proposed building line treatment for Plot A on James's Place East acceptable.

- 8.4.10. I note that the Conservation Division sought the reduction of this block to three storey with setback fourth storey, to reflect the scale and proportion of the mews buildings which would have existed historically, and to impact less on adjoining lower buildings. The planning report noted these concerns but considered given the separation distances, the precedent for height on adjoining sites and the proposed use as residential, that block A sits comfortably within its surrounding context.
- 8.4.11. In my view, considering in particular the proposed south contiguous elevation drawing, the variation of the height of block A detracts from the expression of the original plot widths, which would be more easily understood with more uniform height along this extent. Also considering the revised CGI submitted for James's Place East (MOLA document page 14) I consider the fourth floor (5<sup>th</sup> storey) overbearing to nos. 49 and 50. I am of the view that the scale and massing lessens the legibility of the historical enclosed front yard arrangement that the proposal re-instates at nos. 49 and 50. I also consider that more uniformity in height would be a better reflection of the regularity of the mews formation that existing historically - the streetscape was highly ordered and rhythmic - as discussed at 8.4.18 below.
- 8.4.12. For this reason, along with the height of the fourth floor compared to protected structures on Mount Street Upper, if the Commission is minded to grant planning permission I recommend the omission of the uppermost storey on Plot A.
- 8.4.13. In terms of material contravention cited in appeals, I do not consider that the proposal materially contravenes the DCDP as Policy BHA14 is not rigid or overly specific in that it is to "promote" the redevelopment of mews in the manner set out.
- 8.4.14. Furthermore I note Chapter 15 of the DCDP sets out standards and criteria to be considered in in the development management process. It states: "The guidance and principles set out are intended as a guide to prospective applicants as to how new development should stimulate responsive and innovate design in the city." These are not therefore rigid requirements of the DCDP such that a material contravention could occur.

### **Materiality**

- 8.4.15. No concerns were raised in the appeals in relation to the design style or materials proposed. The Planning Authority sought some revisions by way of further information. Overall I am satisfied that the proposed development incorporates high

quality materials and architectural detailing with materials including buff coloured brick, with vertically protruding brick articulation, reconstituted stone/polished precast stone, bronze-coloured anodised aluminium spandrel panels, high performance composite windows and door systems with bronze anodised aluminium finish. Historic stone is to be salvaged and re-used. I note conditions requiring details of sliding gates and use of timber on same.

**Direct impacts on Protected Structures:**

- 8.4.16. The development will include works to No. 40 Mount Street Upper. This includes the provision of a platform lift at the main entrance and associated alterations to the existing railings. The lift is proposed to provide universal access to the front of the property. The works require replacement of a portion of the front railings with an inward opening gate providing c. 1m clear access to the lift. Full details of the works have been provided in response to the FI request. The works are minimal, clearly distinguishable from the original building and in my opinion are not of a scale or design that would significantly detract from the character of no. 40 Upper Mount Street.
- 8.4.17. A pedestrian bridge is proposed to the rear of no. 40 Upper Mount Street, at upper ground floor level, linking it to the landscaped courtyard area at the rear of the proposed new build office development in Plot B. The bridge is provided through an existing rear window opening which will be removed. The stone cill will be lowered to FFL. The bridge is to be lightweight and cotemporary and reversible. It is intended to activate the garden space and ensure accessibility. Drainage features are to be re-routed around the opening. Full details of the works have been provided in response to the FI request. These works are minimal and again I consider that the impact the special character and appearance of no 40 Upper Mount Street would be very minor. Overall the works were deemed acceptable to the Conservation Division of DCC. Conditions 7 (e) (iii) (iv) (v) and (f) refer. There are no specific objections to these works within the appeals. I consider these works acceptable and to comply with the provision of BHA2.
- 8.4.18. The other building affected is the mews/stable house at no. 50 James's Place East. This building is relatively modest and has been heavily modified. The original rear wall has three regular openings at first floor level. A central round headed window

openings survives internally. The roof is contemporary, the carriage arch has been modified. The AHIA provides photographs of same along with details of the evolution of the streetscape on James's Lane East. The original boundary wall along the stable lane, James's Place, is shown in detail on 19th century maps. The coach houses/mews buildings were set back circa 10 metres from the roadway, behind an enclosing boundary wall. This arrangement now only remains at no. 52 James's Place East. The streetscape was highly ordered and rhythmic. Only two mews/coach house now remain at no. 50 and 52.

- 8.4.19. The building at no. 50 is proposed to be converted to residential use. There is a more recent single-storey, flat-roofed extension attached to the back of the mews housing kitchen and sanitary facilities; this is proposed to be demolished. A drawing was submitted in response to FI which depicts details of all works to the building including conservation repairs. It is proposed to frame the forecourt of the restored mews building with a new screen wall to reinstate a sense of enclosure to the yard its style consistent with the remainder of the building in Plot A. Overall the works were deemed acceptable to the Conservation Division of DCC. Conditions 7 (e) (i) and (ii) and (f) refer. There are no specific objections to these works within the appeals. I consider these works acceptable and to comply with the provision of BHA2.
- 8.4.20. Historic walls forming the curtilage of protected structures are affected. Removal of sections of boundary walls across Plots A and B is proposed to facilitate lateral permeability, and plot amalgamation, to achieve the development. Details of same are within the AHIA; FI was also requested in relation to same and detailed drawings of existing boundaries and proposed works are provided. The impact on the boundary walls within Plot A are more minor, having been reduced following FI request; the boundary between 47/48 is the greatest impact with a section to be removed to allow for construction. The impact on the boundary walls in Plot B is most significant between nos. 42/43. I note that other boundaries have already been lost due to amalgamation to the rear of properties on Mount Street Upper and have also been modified/augmented in many places.
- 8.4.21. I do not agree with the view expressed in appeals that the development will erase the original rear garden boundaries. The loss of boundary fabric is not very extensive or proportionally excessive compared to what remains. While it would of course be

desirable not to lose any historic walls, I consider some loss is unavoidable to allow the efficient development of the site. I note the works to the boundary wall were explored in detail at FI stage and deemed acceptable to the Conservation division. The line of the individual plots and boundaries is clearly expressed in the new development (some revision of detail is required by Condition 6 (e) (i) and (vi)) including on James's Place East where other than at no. 50 no historic frontage remains. I am satisfied that the works to boundary walls and treatment of building line/plot frontages is acceptable and I consider that these elements are sufficiently protected and retained, in compliance with provisions of policy BHA2.

8.4.22. Overall I am satisfied that, subject to the omission of the top floor of Block A, the proposed development adequately respects the protected structures within the site, the setting of protected structures in the vicinity, the character of the conservation area and the historic mews lane building line, plots and proportionality. It delivers many enhancements including replacement of shutters and modern blockwork which currently detracts from the character of the area, re-instates architectural detail and characteristic plot widths, retains buildings which contribute to the conservation area and (subject to conditions) has high quality design which is compatible with the conservation area. I do not therefore consider that any material contravention of BHA9 occurs.

#### **8.5. Standard of proposed residential amenity**

- 8.5.1. 26 No. apartments are proposed. A housing quality assessment accompanied the application. All units meet the 2023 Apartment Guideline standards for floor areas, dual aspect ratios, floor to ceiling height, stair/lift cores, storage, amenity space and room dimensions
- 8.5.2. No car parking is proposed which is acceptable at this location, subject to adequate cycle parking provision. A communal bike store is accessed externally via no 49. 36 bike spaces are proposed for residents (stated to be 1 per bedspace) along with 12 visitor spaces. A separate cargo bike storage is also proposed rear of no. 50. Bicycle parking is to an satisfactory standard. I calculate total bedspaces as 71; I note that there are some discrepancies within reports as to whether spaces in the communal

bike store area are double stacked or single spaces; this may be addressed by condition in the event of a grant of permission.

- 8.5.3. The proposed development will provide 287 sqm of communal amenity space via a private sheltered garden and roof terrace to the north and west of the block, in excess of the 147 sqm required.
- 8.5.4. The application indicates open space provision of 16sm in front of the mews building at no. 50 and has expressed a willingness to pay a financial contribution in lieu of public open space provision. I do not consider this area meaningful public open space. It is limited in terms of use due to its size, relates poorly to most apartment units and is behind controlled access gates. It might be considered communal space at best. I consider financial contribution in lieu of public open space provision would be appropriate. This may be attached by condition in the event of a grant of planning permission.
- 8.5.5. A daylight and sun light assessment accompanies the application with reference to BR 209 - Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (2022). Part C relates to the scheme performance for proposed apartments. In terms of Spatial Daylight Autonomy (SDA) 96% compliance is achieved; all rooms except two meet the required target illumination. These exceptions are the LKD of units A-0-04 and A-1-04 which are at 43% compared to target 50%. A compensatory design solution is proposed for each:
- Unit A-0-04 19% oversized unit with direct private amenity space to the front offering family style unit.
  - Unit A-1-04 16% oversized unit, dual aspect kitchen/living/dining. Due to site conditions it will not be possible to achieve BRE guidance levels alongside a sensitive façade articulation proposed. (I note under section 8.5.11 onwards below, modifications to this unit are now proposed).
- 8.5.6. The existing mews building at no. 50 is also non-compliant however I note that this is an existing structure and a Protected Structure and I accept the limitations this places on modifications to achieve better compliance. A compensatory measure is noted as direct access to the rear to private amenity space providing a family style unit

- 8.5.7. A supplementary assessment of SDA is provided under I.S. EN 17037. However the report states that it is the opinion of 3D Design Bureau, that the BRE Guidelines (BR 209) are the most appropriate guiding document for daylight and sunlight assessment. I note Appendix 16 of the DCDP states that limitations within I.S. EN 17037 make it unsuitable for use in planning policy or during planning applications. BR 209 must still be used for this purpose. Therefore the analysis under BR 209 is the relevant analysis.
- 8.5.8. In terms of Sunlight exposure, 44% compliance is achieved. Regarding No Sky Line, 64% of units met the chosen criteria of 80%, based on BRE Guidelines which state that supplementary electric lighting will be needed if a significant part of the working plane (20% of the room or more) lies beyond the no sky line.
- 8.5.9. Sun on ground: The BRE Guidelines recommend that for a garden or amenity to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on March 21st. Recommended minimum is 50%. The two communal spaces associated with the apartments achieve 49% and 50%.
- 8.5.10. I acknowledge that some of the residential development falls short of the minimum standards set out in BRE 209. However having regard to the constraints on the site arising from the nearby Miesian Plaza, the orientation of the site, the inner infill location of the site and the need to achieve appropriate streetscape within the mews lane/conservation area, I consider the overall standard achieved acceptable. I note that the Planning Authority also took this view.
- 8.5.11. A number of the apartments are served by an internal lightwell adjacent no. 46 James's Place East. This lightwell is the sole window to a bedroom and the second window to a kitchen in 2 No. 2 bed apartments on each of four upper floors. The appeal by Zermatt relates to this feature; No. 45/46 James's Place East contains a one and two storey commercial building, and has a live permission under 3414/24 for an extension to three stories, not reflected in drawings. Regard has not been had to this extant permission.
- 8.5.12. The applicant has submitted revised drawings as part of this appeal, which have been circulated to the third party appellant, Zermatt. Given the arrangement of

properties and the issue at hand, I am satisfied that the revised drawings may be considered as part of this appeal without prejudicing any other party.

8.5.13. The revised drawings submitted enlarge the lightwell and recess it further into the building in a westerly direction. Modified layouts to 8 apartments are provided. The effect of same is as follows:

First Floor:

- Apartment A-1-03: Reduced floor area 85sqm to 79 sqm. Loss of one bathroom. Reduction in size of 2<sup>nd</sup> bedroom, Re-orientation of window onto lightwell.
- Apartment A-1-04: Reduced floor area 85sqm to 77 sqm. Loss of one bathroom. Reduction in size of 2<sup>nd</sup> bedroom, reduced window onto light well and addition of rooflight above.

Second floor

- Apartment A-2-03: Reduced floor area 85sqm to 79 sqm. Loss of one bathroom. Reduction in size of 2<sup>nd</sup> bedroom, Re-orientation of window onto lightwell.
- Apartment A-2-04: Reduced floor area 85sqm to 71 sqm. Loss of one bathroom. Change from 2 Bed 4 person to 2 bed 3 person. Window onto lightwell set back.
- Second small window onto lightwell serving circulation area to both apartments.

Third Floor

- Apartment A-3-03: Reduced floor area 85sqm to 79 sqm. Loss of one bathroom. Reduction in size of 2<sup>nd</sup> bedroom, Re-orientation of window onto lightwell.
- Apartment A-3-04: Reduced floor area 85sqm to 62 sqm. Change from 2 Bed 4 person to 1 bed 2 person. Omission of window onto lightwell.
- Second small window onto lightwell serving circulation area to both apartments.

Fourth floor

- Apartment A-4-03: Increased floor area 68sqm to 69 sqm. Loss of large storage area/hotpress. Re arrangement of KDL. Reduction in balcony. Re-orientation of window onto lightwell.
- Apartment A-4-04: Reduced floor area 85sqm to 62 sqm. Change from 2 Bed 4 person to 1 bed 2 person. Omission of window onto lightwell.

- Second small window onto lightwell serving circulation area to both apartments.

8.5.14. I am satisfied that these arrangements address the concerns of the third party and adequate floor areas remain. I note at Level 2, 3, and 4 the only windows directly facing onto the adjacent property serve circulation space (within Level 1 the window faces onto a proposed wall) and I do not consider that the third party suggestion that the wall should be built up to parapet level is warranted; there are no significant windows looking into the lightwell and directly towards no. 46 from the west such that overlooking is an issue. Such a structure would further reduce light and aspect to the lightwell within. I do however concur with the view of the appellant regarding balconies to front and recommend the omission of windows/open side to balconies at the eastern side of balconies in units A-3-04 and A-4-04.

8.5.15. I note the appellant raises concerns regarding confidence in the technical daylight and sunlight statement submitted in response to FI, due to an increase in the SDA of Room Unit A-1-04. I consider this can be explained by the decrease in the floor area of that room, and unchanged window size/orientation.

8.5.16. Overall I am satisfied that an acceptable standard of residential amenity is provided.

## **8.6. Impact on amenities of properties in the vicinity**

8.6.1. The separation distance between Block B and the typical building line of the rear of structures on Upper Mount Street is c. 17-21m at ground floor level, c.36 m at first and second floor level and c.41m at second floor level. The separation distances between Block A and structures to rear are c. 41m at upper floors. I consider these distances are adequate to prevent undue overlooking and to prevent any sense of overbearance as viewed from existing structures. In this regard I note the provisions of the Compact Settlements and SPPR 1 which states that when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained.

- 8.6.2. I also consider that this separation distance, along with the indicative boundaries shown on the MOLA FI response, are adequate to allow for a return to residential use in properties on Upper Mount Street
- 8.6.3. In terms of daylight/sunlight impact, a thorough assessment accompanies the application, and I am generally satisfied that it is comprehensive, clear in terms of methodology applied and robust. I do not intend to repeat the content of the assessment however I will highlight more significant findings.
- 8.6.4. The VSC analysis showed varying degrees of impact on the surrounding commercial and school properties. 139 windows were assessed, the impact on 83 of these was negligible. It states that affected properties are primarily commercial in nature and are likely to already operate with artificial lighting. The study acknowledges that the office building at 30 Herbert Street, located to the East of Site B, and the school building, will have higher levels of impact. The most significant impact is that of 3 windows with 'major adverse' impact in Scoil Chaitriona. These three windows are ground floor windows are positioned beneath an existing canopy built by the school., A supplementary study carried out using considerably reduced massing of the office building on Site B, shows that these 'major adverse' levels of effect remain on these school windows despite reduction in scale. This reflects that exiting constraints are a limiting factor to daylight access to these spaces.
- 8.6.5. In the sun-on-ground impact analysis, most effects are negligible. The areas experiencing higher levels of impacts are not confirmed amenity spaces and appear to be associated with commercial uses, and currently back on to car parking. The Sensory Garden/Community Garden is noted will comply fully with BRE standards.
- 8.6.6. One of the third party appeals relates in part to the failure to address the impact on daylight and sunlight to no. 48 Mount Street Upper. The Daylight and Sunlight Assessment submitted sets out its methodology and the criteria to determine the properties to be included in the impact assessment of Vertical Sky Component as per BRE 209. All properties within a distance of three times the height of the proposed development were considered for impact assessment. A perpendicular section is then drawn from the main window wall of the potentially affected properties to determine if the proposed development subtends an angle of more than 25° at the lowest window. If the proposed development subtends 25° in this section, then a

VSC assessment should be conducted. This was not the case with no. 48 Upper Mount Street therefore further detailed assessment was not required in terms of VSC.

- 8.6.7. The property is considered in the Sun On Ground assessment, and it is evident that the majority of the rear open space is capable of receiving 2 hours of direct sunlight on March 21<sup>st</sup>. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21<sup>st</sup>.
- 8.6.8. In terms of no. 48 Mount Street Upper, a distance of c. 13.5m exists between Block A and the rear boundary of the proposed site, and a distance of c. 30 m within no. 48 from the main rear building line to the rear boundary of that property. I do not consider that any undue overlooking will arise and I do not consider the proposed development would prejudice the return of that property to residential use.
- 8.6.9. I am satisfied that the impact on daylight and sunlight to no. 48 Upper Mount Street has been fully considered in the assessment and that undue impacts on the property do not arise. On a wider level, the BR 209 Guide acknowledges that the guidance should be interpreted flexibly since natural lighting is only one of many factors in site layout design. Given the constraints of the site in terms of orientation, proximity to buildings of significant scale and also constraints arising from built heritage, I consider that daylight and sunlight provision and impact are acceptable in terms of this urban infill location.

#### 8.7. **Condition 5/Carriageway James's Place East**

- 8.7.1. The Development Management Guidelines published in 2007, and more recently OPR Practice Note 3 on Planning Conditions, set out certain criteria which planning conditions should meet. Conditions should be necessary, relevant to planning, relevant to the development, precise, enforceable and reasonable.
- 8.7.2. For ease of reference, parts a) and b) of Condition 5 of grant of planning permission are provided below:

The Developer shall comply with the following transportation planning requirements as follows:

a) Prior to commencement of development, plans and particulars sufficient to provide a comprehensive description and illustration of the amendments to the development in response to the Request for Further Information of 22nd August 2025 shall be submitted to the Planning Authority for written agreement. The submitted material shall include a complete set of architectural drawings.

b) Improvements to the public realm and pedestrian environment of James's Place East in response to the significant changes to the nature and use of this street as a result of the development shall be agreed in writing with the Planning Authority prior to commencement of development. All works shall be implemented in full prior to first occupation of the development. All works shall be at the applicant's / developer's expense. Plans and details of these improvements shall be provided by the applicant / developer and works shall seek to achieve the following:

- i. James's Place East to continue to operate as a standard 2-way vehicular road with no shared surface treatment.
- ii. A clear 1.8m wide public footpath clear of any structure above or below provided along the full length of the north side of James's Place East.
- iii. On-street parking to be retained where possible and location of new loading bay identified. Consideration of the removal / relocation of limited on-street parking spaces to facilitate the new footpath.
- iv. The introduction of limited new hard landscaping / tree planting / cycle parking which does not unduly impact the operation of the revised road.
- v. All materials to comply with the document Construction Standards for Roads and Street Works in Dublin City Council and annotated on all relevant plans/drawings

8.7.3. I do not consider parts (i) (iii) or (iv) of this condition to be precise. The carriageway does not, at the present time, 'operate as a standard 2-way vehicular road'; part of the carriageway is obstructed by bollards at the school and there is insufficient space for two lanes of unobstructed traffic and on-street parking along the road. There are unprecise and subjective terms within the condition including retain on-street parking "where possible"; "consideration of" removal of "limited" parking spaces; introduction of tree planting etc. which "does not unduly impact" operation of the road.

- 8.7.4. The Design Manual for Urban Roads and Streets Section 4.4 states that the standard carriageway width on local streets should be between 5-5.5m. It is difficult to see how a 2 way 5m carriageway, existing footpath, required new 1.8m footpath, retention of on-street parking and street trees/cycle parking can be provided within the existing road space (approx. 9m). For the applicant to fully deliver the works within the condition, on lands within its control, does appear to require the setting back the building line to the north. Setting back this building line is a material and significant change to the permission and, as a condition, unreasonable. Furthermore, setting back the building line would significantly conflict with built heritage objectives of this conservation area, in terms of the historic building line of mews buildings associated with the Georgian terraces on Mount Street upper.
- 8.7.5. The Transport Planning Division (TPD) has commented on the appeal. It states that the condition is worded to allow flexibility. It states that the existing extent of roadway, building line and property boundaries may not allow for the full delivery of all works. It acknowledges that setting back the building line is not likely a feasible way of complying with condition 5.
- 8.7.6. In considering alternatives, the applicant proposed a shared surface and indicated willingness to develop and agree the design and layout of the shared surface zones at the end of the laneway with DCC. (As per DMURS the total carriageway width on Local streets where a shared surface is provided should not exceed 4.8m.) The TPD comment on the appeal says a shared surface is not acceptable.
- 8.7.7. The TPD comment includes a note highlighting that planning permission for works on the public road does not confer the legal right to undertake such works; that the required Road Opening Licence only issues when DCC is agreeable to the works. The implication here appears to be that if the Commission were to attach a revised condition for works to James's Place East, such as a shared service, DCC may refuse consent for its implementation.
- 8.7.8. The applicant also, during the application process, indicated a willingness to accept a financial condition for the cost of the works. The TPD report on the application states that it is considered that suitable improvements to the street should be agreed as part of the subject application prior to any grant of permission; the need for improvements to James's Place East has been highlighted since pre-application consultation stage.

- 8.7.9. As noted above, the appeal was circulated to DCC, thus providing the TPD an opportunity to specify improvement works to James's Place East, which would be agreeable to that division. While the report of the TPD acknowledges limitations in complying with the condition, and states what is not acceptable, it provides no further details of an alternative that would be acceptable.
- 8.7.10. I have considered whether a condition to provide a footpath (of up to 1.8m) would be appropriate, in the event of a grant of planning permission. However this may also conflict with the vision of DCC for this carriageway.
- 8.7.11. In the above circumstances, given the condition as applied is unprecise and unreasonable, and given no precise detail has been provided by DCC which might allow for a revised condition, I consider that there is no option other than to remove Condition 5 a) and 5 b) i) to iv). Appropriate works to James's Place East will require to be determined and carried out by DCC.
- 8.7.12. In the interest of completeness, I note the following:
- I have reviewed recent planning decisions on the subject site and adjacent site in terms of establishing previous approaches to road improvements on James's Place East.
    - Under PL 3414/24 (45-47 James's Place East) no modifications to the carriageway or footpath provision were proposed within the application, or required by the Planning Authority by condition of planning permission. I acknowledge that this development was much less significant in scale to the subject application.
    - Under PL 4899/23 ABP319168 the report of the TPD section sought a footpath (no specific width) along the north side of James's Place East, but no further requirements in relation to the carriageway were specified. (The development would primarily have been accessed from Mount Street Upper with a community space accessible from James's Place East.) The more significant element of this development was refused and there was no requirement for works to the James's Place East roadway in conjunction with the elements of the permission that were granted.

- Consideration could have been given to whether the improvement works might be addressed by way of a Special Development Contribution. No proposal was put forward by DCC in this regard. I note the provisions of S48(2)(c) of the Act that for such a payment, specific exceptional costs must be incurred as a result of the development or in order to facilitate it, and such costs cannot be covered by a Development Contribution Scheme made under Section 48 or 49 of the Act. With the information available at this time I am not satisfied that the required works would not be covered by a Development Contribution Scheme made under Section 48 of the Act. Furthermore, in any event in the absence of specific costings of exact works required, a Special Development Contribution could not be applied.

8.7.13. I note the applicant has indicated a response to the remaining requirements of Condition 5 their appeal submission. I am satisfied these items may be addressed by condition, including by utilising the existing turning head and proposed access lane for access and servicing of Plot B.

## 9.0 **AA Screening**

- 9.1. I have considered the proposed development in light of the requirements of S.177U of the Planning and Development Act 2000, as amended. The subject site is located within an established urban area. The application site is located c. 2.2 km west of South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA and c. 5.1 km southwest of North Dublin Bay SAC and North Bull Island SPA.
- 9.2. The proposed development comprises some demolition works and the construction (following FI amendments) of 26 apartments and office accommodation (10,719 sqm in total) and a community garden. For stormwater disposal, an extensive range of SuDS features is proposed with overflow connection to the combined public sewer. Foul water is proposed to connect to the public sewer. The public sewer discharges after treatment, under licence, to Dublin Bay.
- 9.3. An AA Screening Report prepared by DNV formed part of the application. No submissions relating to Appropriate Assessment were received.

9.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:

- The urban infill nature and scale of the works.
- The location of the site within a built-up residential area
- Storm/surface water management details and proposed connections to existing public water services.
- Distance from European sites and waterbodies and lack of significant hydrological connectivity.

9.5. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000, as amended) is not required.

## 10.0 **Water Framework Directive**

10.1. The surface waterbody Dodder\_050 (IE\_EA\_09D010900) is approximately 1.2 km south east of the subject site (Moderate water body status). The Grand Canal Main Line (IE\_09\_AWB\_GCMLE) is approximately 175m to the south east (Good water body status). The groundwater body is Dublin (IE\_EA\_G\_008) (good water body status).

10.2. The subject site is located on zoned land within an established inner urban area of Dublin City. The proposed development comprises some demolition works and the construction (following FI amendments of 26 apartments and office accommodation (10,719 sqm in total) and a community garden. For stormwater an extensive range of SuDS features is proposed with overflow connection to the combined public sewer. Foul water is proposed to connect to the public sewer.

10.3. No water deterioration concerns were raised in the planning appeal or by observers.

10.4. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and,

where necessary, restore surface water and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

10.5. The reason for this conclusion is as follows:

- The relatively small scale of the works and their nature
- The location of the site, distance from nearest water bodies and lack of hydrological connections.
- Proposed connection to public wastewater network.

10.6. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 11.0 Conclusion and Recommendation

I conclude that the proposed development is acceptable in principle having regard to the zoning of the site. I consider that the density and height are broadly appropriate, having regard to the provisions of Appendix 3 of the DCDP and the prevailing context in the area. I consider that, subject to a condition omitting the 5<sup>th</sup> storey of Plot A, an appropriate conservation response is achieved, in compliance with BHA2, BHA9, BHA14 of the DCDP. Having regard to the constraints of the site, I consider satisfactory residential standards are achieved and that the proposed development will not detract from the amenities of properties in the vicinity or prejudice their future development. I consider condition 5, as it relates to the treatment of the carriageway on James's Place East is unreasonable and should be omitted. Overall I recommend that permission be granted, subject to conditions.

## 12.0 Reasons and Considerations

Having regard to the 'Z10' - Inner Suburban and Inner City Sustainable Mixed-Uses zoning of most of the site (To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses) and the Z8 Georgian Conservation Areas zoning (To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective) and having regard to the policies and objectives set out in the Dublin City Council Development Plan 2022 to 2028 and the pattern of development in the area, it is considered that the proposed development is in accordance with the zoning objectives of the site and, subject to conditions, represents an appropriate conservation response which would positively enhance the area, would not significantly detract from the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1	<p>The 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 10<sup>th</sup> day of November 2025, except as may otherwise be required in order to comply with the following conditions.</p> <p>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.</p> <p>Reason: In the interest of clarity.</p>
2	<p>The fourth floor on Plot A containing apartments A-4-02, A-4-03, A-4-04, A-4-05, shall be omitted. Revised drawings shall be submitted for the written agreement of the Planning Authority. The location of rooftop community amenity space shall be set back from southwest and northeast building line and access and screening detail for same shall be indicated on drawings.</p> <p>Reason: To provide for a subordinate building height in relation to the 'parent' protected structures on Upper Mount Street, and to provide more appropriate scale and legibility of the historic mews building line and plot arrangement on James's Place East, in the interest of the protection of architectural heritage.</p>
3	<p>(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 6<sup>th</sup> day of February 2026.</p> <p>(b) The south-eastern boundary to the balconies on James Place East where adjoining no. 46 shall be a solid boundary.</p> <p>(c) One cycle parking space per bedspace shall be provided in the ground floor bicycle store in Plot A.</p> <p>Reason: In the interest of clarity, residential amenity and orderly development</p>
4	<p>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.</p> <p>Reason: In the interest of visual and residential amenity.</p>
5	<p>Prior to the erection of external materials, details of the materials, colours and textures of all external finishes including samples, shall be submitted to and agreed in writing by the Planning Authority.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area</p>

6	<p>Prior to the commencement of development, the developer shall submit details of the following for the written agreement of the Planning Authority in relation to Plot B:</p> <ul style="list-style-type: none"> <li>(i) 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).</li> <li>(ii) Emergency, refuse and delivery vehicle access to the development and any right-of-way access to the adjacent property at 36 Mount Street Upper</li> <li>(iii) Vehicle turning facilities without extensive reversing manoeuvres along the private access road or James's Place East.</li> <li>(iv) Dedicated set-down/loading facility.</li> <li>(v) A Servicing, Delivery and Access Strategy for the overall development.</li> </ul> <p>Reason: In the interest of traffic safety</p>
7	<p>The development shall be amended as follows, which shall be indicated on drawings, submitted and agreed in writing with the Planning Authority, prior to the commencement of development:</p> <ul style="list-style-type: none"> <li>(a) The vehicle access route to the rear of the 'Plot A' residential development, shall be modified to provide refuge areas for pedestrians at regular intervals.</li> <li>(b) All doors shall open inwards into the development and not onto the public road, except where required for emergency egress.</li> <li>(c) A map delineating all areas of the development proposed for taking in charge.</li> <li>(d) Details of access management (key/fob access) to cycle parking and community garden</li> </ul> <p>Reason: In the interest of traffic safety, residential amenity and orderly development.</p>
8	<p>A Stage 1 Road Safety Audit (RSA) shall be prepared by an independent approved and certified auditor for the 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 opening of the completed development to traffic, unless otherwise agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of traffic safety.</p>
9	<p>The 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.</p>

	Reason: To achieve a reasonable modal split in transport and travel patterns in the interest of sustainable development.
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10	<p>The Developer shall comply with the following conservation requirements as follows:</p> <ul style="list-style-type: none"> <li>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.</li> <li>b) Dimensional anomalies on 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.</li> <li>c) Prior to the commencement of the development, the applicant shall submit the following for the written approval of the planning authority: <ul style="list-style-type: none"> <li>(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 Nos. 43, 42; 41, 40; 39, 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</li> <li>(ii) depth/dimension of the fin on the garden elevation of the new building at ground floor level</li> <li>(iii) new internal dimension of the reduced 'steps' in the footprint of the building (to the rear of Nos. 41, 40; 39, 38) at ground floor level</li> <li>(iv) dimensions from the face of each of the 3no. 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)</li> <li>(v) dimension from the front of the glazing on the garden elevation at third floor level</li> </ul> </li> <li>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.</li> <li>e) During the course of the development, the applicant shall submit for the written approval of the planning authority: <ul style="list-style-type: none"> <li>(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</li> <li>(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 Conservation Division.</li> </ul> </li> </ul>
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	<p>(iii) No. 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 (full repointing would require planning permission); historic window and door repairs and other conservation repairs – applying for a separate Section 5 as necessary.</p> <p>(iv) No. 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</p> <p>(v) No. 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</p> <p>(vi) Revised landscaping proposals, omitting the large timber pergola and posts indicated in the visualisation in MOLA Response to RFI p.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 – to protect the setting of the Protected Structures on Mount Street Upper.</p> <p>f) The proposed development shall be carried out in accordance with the following:</p> <p>(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 reinstatement.</p> <p>(i) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.</p> <p>(ii) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.</p> <p>Reason: In the interest of the protection of architectural heritage.</p>
11	The landscaping scheme shall be implemented within the first planting season following substantial completion of external construction works. All

	<p>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 5 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.</p> <p>Reason: In the interest of residential and visual amenity.</p>
<b>12</b>	<p>Prior to the commencement of development the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
<b>13</b>	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements, in writing where necessary, of the planning authority for such works and services, including the following:</p> <p>(a) The Developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 and Dublin City Council's Sustainable Drainage Design and Evaluation Guide (2021)</p> <p>(b) Full details of Sustainable Drainage Systems in the management of surface water shall be agreed in writing with the DCC Drainage Planning, Policy and Development Control Section (DPPDC) prior to commencement of construction.</p> <p>(c) All internal basement drainage must be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer. Recommendations of the Basement Impact Assessment by CORA Consulting Engineers shall be fully implemented.</p> <p>Reason: To ensure a satisfactory standard of development and in the interest of public health.</p>

14	<p>The construction of the 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 comply with Dublin City Councils Construction and Demolition Good Practice Guide for Construction Sites and include the following:</p> <ul style="list-style-type: none"> <li>(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</li> <li>(b) Location of areas for construction site offices and staff facilities;</li> <li>(c) Details of site security fencing and hoardings;</li> <li>(d) Details of on-site car parking facilities for site workers during the course of construction;</li> <li>(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;</li> <li>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</li> <li>(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;</li> <li>(h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</li> <li>(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;</li> <li>(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</li> <li>(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</li> <li>(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</li> <li>(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.</li> <li>(n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;</li> </ul> <p>Reason: In the interest of amenities, public health and safety and environmental protection</p>
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15	<p>Site development and building works shall be carried out between the hours of 07:00 to 18:00 Mondays to Fridays inclusive, between 08:00 and 14:00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.</p> <p>Reason: To safeguard the amenity of property in the vicinity.</p>
16	<p>The applicant shall ensure that electronic communications/digital connectivity infrastructure supporting fixed broadband services as well as mobile network services including ducting or internal conduits, are provided within the scheme prior to occupation of the first unit hereby approved. Such ducting or internal conduits shall conform to Dublin City Council's Guide to the Installation of Telecoms Infrastructure in Residential and Mixed-Use Developments. Reason: In the interest of visual and residential amenity</p>
17	<p>Proposals for the name of the development, house/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, and house/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.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new developments.</p>
18	<p>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.</p> <p>Reason: To comply with the requirements of Part V of the Planning and</p>

	Development Act 2000, as amended, and of the housing strategy in the development plan for the area.
19	<p>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 local 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 local 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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge</p>
20	<p>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.</p> <p>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.</p>

21	<p>The developer shall pay to the planning authority a financial contribution of €5,000 (five thousand euro) per residential unit as a contribution lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the 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 the 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.</p> <p>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.</p>
22	<p>The developer shall pay to the planning authority a financial contribution in respect of 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.</p> <p>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.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or

sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

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Bébhinn O'Shea

Senior Planning Inspector

30<sup>th</sup> April 2026

## Appendix 1: Form 1 EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	500596-26		
<b>Proposed Development Summary</b>	Development will consist of demolition of existing structures, construction of 26 apartments and office accommodation (10,719 sqm in total) and a community garden.		
<b>Development Address</b>	James's Place East		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	X	Class 10 (b)(i) Construction of more than 500 dwelling units.  Class 10 (b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			
<b>No</b>	X		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	X	Class 10 (b)(i) Construction of more than 500 dwelling units.  The proposal comprises 26 no. residential units.	Preliminary examination required (Form 2)

		Class 10 (b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.  The site comprises 0.461 ha	
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<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	No	<b>Screening determination remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2: Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	500596-DS-26
<b>Proposed Development Summary</b>	Development will consist of demolition of existing structures, construction of 26 apartments and office accommodation (10,719 sqm in total) and a community garden.
<b>Development Address</b>	James's Places East, Dublin 2.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The site is a serviced urban site and its size at .461 hectares is not exceptional in the context of the prevailing plot size in the area.</p> <p>The development would not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance due to its scale.</p> <p>The development, by virtue of its type and nature, does not pose a risk of major accident and/or disasters, or is vulnerable to climate change. It presents no risks to human health.</p> <p>The size and scale of the proposed development is not significantly or exceptionally different to the existing building or developments in the area.</p>
<b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity	<p>The subject site is not located in or immediately adjacent to ecologically sensitive sites.</p> <p>It is considered that, having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.</p>

<p>of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>There are no sites of archaeological significance within the immediate vicinity of the site. The site incorporates 2 no. Protected Structures and is within an ACA. The impact on these historic/cultural elements is considered in the report above. It is not considered that the proposed development on this aspect alone would warrant EIA.</p>
<p><b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<p><b>Conclusion</b></p>	
<p><b>Likelihood of Significant Effects</b></p>	<p><b>Conclusion in respect of EIA</b></p>
<p><b>There is no real likelihood of significant effects on the environment.</b></p>	<p><b>EIA is not required.</b></p>

<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p>	
<p><b>There is a real likelihood of significant effects on the environment.</b></p>	

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_