



An
Bord
Pleanála

Inspector's Report ABP-303347-19

Development	Protected Structure: Change of use from office to educational.
Location	60, Northumberland Road, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3547/18
Applicant(s)	The John Scottus Educational Trust.
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Landsdowne & District Resident's Association.
Observer(s)	Pembroke Road Association Coleesa Egan
Date of Site Inspection	11 th March 2019.
Inspector	Brid Maxwell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 921.05 sq.m fronting onto the western side of Northumberland Road, and extending to the rear / east to Landsdowne Park in Dublin 4. The site is occupied by a three storey semi-detached period building, which includes a three storey rear extension constructed in the 1970s. Pedestrian access is available from Northumberland Road with vehicular access from Landsdowne Park. A hard surface area occupies the rear portion of the site to Landsdowne Park which is a mews type laneway with a footpath on the eastern side and pay and display / permit parking on the street. In contrast Northumberland Road is a busy 10m wide road with mature trees lining the footpath and bus lanes and cycle lanes on both sides and no on street parking.
- 1.2 The property is listed on the record of protected structures (Ref No 5923). The property is a three bay two storey over raised garden semi-detached red brick former house built c 1880, converted to use as flats mid 20th century and subsequently converted to office use c1965. No 60 is a semi-detached structure built as a pair with no 62 (In office use) to the south. The buildings are set back from the street within their own grounds. The building is fronted by cast-iron railings on a granite plinth, with a matching pedestrian gate. A concrete path leads to the front steps with a small flight of steps to the south leading down to the shallow garden well.
- 1.3 Northumberland Road is comprised of a series of terraced, detached and semi-detached red brick period properties of similar height massing and features and is characterised by a mix of uses including private residential, guest house, multi occupancy residential, offices, embassies, and educational uses. The existing John Scottus School is located directly opposite at 47/49 Northumberland Road.

2.0 Proposed Development

- 2.1. The proposal as set out in public notices consists of “a change of use from office to educational with proposed set down area to the rear of the property.”

2.2. Documentation submitted by the first party outlines that the proposal relates solely to the proposed change of use. Should the application be successful a subsequent application for any necessary works will be submitted.

2.3 A number of documents accompany the application including a School Travel Plan Document and a Conservation and Heritage Impact Assessment by Sunni L Goodson, Historic Buildings Consultant. The conservation and heritage impact assessment seeks to assist in assessing potential impacts of the change of use addressing such issues as fire safety, disabled access, and services. Application outlines that it is intended that the proposal will contribute to the modest growth of the John Scottus School. In relation to the projected number of students, it is intended that the current number of students to move to no 60, which are currently based at 47/49 Northumberland Road is 55 however it is noted that school enrolment numbers by their nature fluctuate on an annual basis.

2.4 In terms of the operation of the school it is outlined that John Scottus National School opens for 38 weeks (183 days) in line with DES regulations. School hours are from 08:00 to 3.15pm. Junior infants, of which there are currently 20, finish an hour earlier. Afterschool finishes at 5.15pm. No weekend use of the premises is envisaged. There are currently 200 pupils attending school at No 47/49 Northumberland Road in 12 classrooms as well as an after-school club. The maximum capacity of the school in an ideal configuration is 207 however accommodation in 47/49 is currently cramped and this capacity cannot be easily achieved. Overtime the numbers may increase due to demand, but as class sizes at John Scottus get no larger than 20 there would be a maximum of 280 pupils in 16 classes spread over the two properties.

2.5 In response to the request for additional information the proposed set down area was excluded from the proposal and the area to the rear of the property dedicated to an outdoor play area. As regards catchment it is outlined that there are currently 200 students attending the school involving 160 families - 41% of students walk or cycle

to school while 18.75% take the bus or train as well as walking and the remaining 40% arrive by car.

3 Planning Authority Decision

3.1 Decision

3.1.1 By order dated 28th November 2018 Dublin City Council issued notification of its decision to grant permission and 5 conditions were attached including the following:

- Condition 2. The permission authorises change of use from office to educational use only. No authorisation for works.
- Condition 3. Noise levels shall not be such as to give reasonable cause for annoyance.
- Condition 4. Implementation of measures outlined in the school travel plan.

3.2 Planning Authority Reports

3.2.1 Planning Reports

3.2.1.1 Planner's Initial report noted concerns of the conservation officer regarding lack of definite proposals for works as outlined within the conservation heritage impact assessment however considered that the change of use can be assessed in isolation. Catchment should be detailed to provide for prediction of modal split. Staff parking and disabled access to rear acceptable as this will not generate significant traffic. Given likely links with John Scottus primary school opposite some aspect of traffic management will be required. Clarification required regarding minibus use and provision for bicycle parking area to the rear of the building.

3.2.1.2 A request for additional information issued seeking a number of items including future plans for the overall site, an alternative to set down area to the rear, clarification regarding minibus use, intended use of outdoor play area to enable assessment of impact on amenity of adjoining neighbours.

3.2.1.3 Following additional information Planner's report recommends permission subject to conditions.

3.2.2 Other Technical Reports

3.2.2.1 Engineering Department Drainage Division report recommends application of condition relating to surface water management as per previous permission 4433/17.

3.2.2.2 Transportation Planning Division report concerns regarding proposed set down spaces to rear of no 60 Northumberland Road requiring reverse in or out. Alternative set down area should be provided and staff parking provided in lieu of set down area. Details of catchment for school should be provided. No objection in principle for provision of school for 55 pupils class however, should numbers increase concerns arise regarding impact on traffic.

3.2.2.3 Second report from Transportation Planning Division following additional information indicates no objection subject to conditions including provision for construction management plan and implementation of measures outlined in the School travel plan including provision for secure cycle parking.

3.2.2.4 Conservation Officer's report following additional information asserts that no conservation officer's review of the file was undertaken. The conservation officer has read the particulars associated within this application and confirms that there are no specific conservation issues associated with the change of use proposal.

3.3 Prescribed Bodies

3.3.1 No submissions

3.4 Third Party Observations

3.4.1 A total of thirteen third party submissions were received by Dublin City Council from neighbouring residents and associations objecting to the proposed development on the following grounds:

- Current traffic issues including congestion will be exacerbated. Lansdowne Lane is unsuited to the level of traffic arising.
- Negative impact on residential amenity arising from traffic and noise and other disturbance.
- Residential house is unsuited to use as a school. Inability to comply with Department of Education and Skills Technical Guidelines for Schools 2014.
- Note permission granted for mews house 147-148 Lansdowne Park which requires provision of cycle parking.
- Negative impact on the architectural integrity of the building.
- Intensification of educational uses in the area.

4 Planning History

ABP-301415-18 (4433/17) Permission granted by Dublin City Council for the construction of a new dwelling on part of the existing car park to the rear of No 60 Northumberland Road. A first party appeal of condition 3, relating to an increased setback, resulted in the removal of the appealed condition.

5 Policy and Context

5.1 Development Plan

5.1.1 The site is zone Z2 Residential Conservation Area. The objective is “To protect and/or improve the amenities of residential conservation areas”. Education use is “open for consideration” within this zone.

Chapter 11 Built Heritage and Culture, includes Policy CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC2 seeks “To ensure that the special interest of protected structures is protected...” “Changes of use of protected structures, which have no detrimental

impact on the special interest and are compatible with their future long-term conservation, will be promoted.

Policy SN10 “To facilitate the provision of new schools, school extensions and third-level institutions and to have regard to the provisions of the DoELG and DES (2008)

SN03 “To actively assist and liaise with the DES in the provision of new schools where there is a demand for such and to facilitate any potential expansion of existing schools throughout the city.”

Section 16.16 provides guidance on the assessment of school applications. Relevant considerations are:

- Compliance with Department of Education and Skills and Dept. Environment Heritage Community and Local Government’s Joint Code of Practice.
- Compliance with Department of Education and Skills Technical Guidance.
- Ensure sites are fit for purpose in terms of location access to services and provision of space for recreational and sports activities
- Seek to situate new schools within the existing/proposed catchments in a manner that aids ease of access from surrounding areas and encourages sustainable mobility.
- Use of Multi Campus schooling arrangements in appropriate cases.
- Minimum size for new primary school is 8 classrooms.
- External hard and softy play areas.
- Urban typologies for new schools which achieve an efficient use of scarce urban land successfully address the streetscape or surrounding context.

5.2 EIA Screening

On the issue of Environmental Impact Assessment screening having regard to the limited nature and scale of the development, nature of the receiving environment no likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded.

6 The Appeal

6.1 Grounds of Appeal

6.1.1 The Third Party Appeal is submitted by McCutcheon Hally Chartered Planning Consultants on behalf of Landsdowne and District Residents. Grounds of appeal are summarised as follows:

- Noting absence of planning history recording of a change of use it is unclear whether office use is authorised.
- Without full details of changes required to implement the change of use, the planning authority could not have determined whether the subject application would be consistent with the relevant policies and objectives of the development plan.
- Significant interventions required to the fabric of the building to convert to school and it is not possible to determine compliance with policy CHC2.
- Approach is effectively project splitting and is not satisfactory in the context of proper planning and sustainable development.
- Proposal cannot be considered in isolation. Implications of change of use are far reaching in terms of the ability to adequately assess traffic related issues.
- The proposal would constitute piecemeal and premature development pending the making of an application that addresses all the relevant issues associated with the operational phase of the school.
- To grant permission would prejudice the outcome of the planning process by pre-determining decisions about the scale and location of any new development.
- The implications on the fabric and character of the structure in accordance with the Architectural Heritage Protection Guidelines 2011 cannot be assessed.
- In relation to Compliance with Part M – Disabled Access, in the absence of detail it is not possible to assess if, and to what extent, the proposal would have an adverse effect on the historical significance of the existing building, facility or environs. As acknowledged within the architectural Heritage Guidelines, it can be difficult to incorporate Part M requirements into historically significant buildings. Building is unsuitable for the provision of a school.

- Site is not suitable for the provision of disabled parking spaces or a set down area. Use of set down area on St Mary's Road would require schoolchildren to cross the road to get to school. Provision of a school traffic warden is outside the control of the applicant as school wardens are appointed by the Local Authority in conjunction with the Garda Commissioner.
- Site is unsafe location for a school from a pedestrian safety viewpoint. Overcoming pedestrian safety issues at this location is outside the control of the applicant and cannot be made a condition of any future grant of planning permission. Should An Bord Pleanála uphold the decision to grant permission respectfully request that a condition is included prohibiting access from Landsdowne Park except or emergency vehicles to safeguard against unofficial set down areas arising and in the interest of traffic safety.
- In the event of permission hours of operation should be imposed to safeguard residential amenity
- Inadequate open space provision and site cannot meet the 33% expansion requirement of the Department of Education Guidance Documents.

6.2 Applicant Response

6.2.1 The response from Joe Bonner, Town Planning Consultant on behalf of the first party is summarised as follows:

- Site was subject to planning application in 1971 (Ref 1089/71) for a 3 storey office extension to the rear by Nitrigin Eireann Teoranta. Following a refusal by Corporation of Dublin permission was granted by the Minister subject to four conditions. Permission confirms that the premises were in use as a commercial office prior to 1971 and there was no suggestion that the use was unauthorised at that time.
- Proposed development is not inconsistent with the Z2 zoning objective.
- In relation to impact of interventions on the fabric of the structure - such interventions are not catastrophic to the integrity of individual structures or the overall nature of the residential conservation area. Similar applications are noted in review of planning

history on Northumberland Road. Interventions are capable of being reversed if the use of the building changes in the future.

- Proposed interventions outlined in the conservation report are normal and both necessary and permissible to ensure that these protected structures continue to have a life and productive use into the future.
- Technical Guidance Document TDG020 does not apply as the proposed school is a capital project funded entirely by the school.
- Application proposes a change of use, does not propose interventions to the building to the appellant in introducing issues that should not be considered in the context of the application / appeal. This is a building regulations rather than a planning issue.
- Part M requires adequate provision for people to access and use a building is facilities and its environs. Lower ground floor will be accessible however upper floors would not be able to be made fully accessible even with a lift due to the configuration of the existing stairs in the front of Victorian building.
- Disabled space could be provided to rear and condition imposed to ensure strict control of use by Principal and staff on duty.
- No objection to control of hours of operation.
- Conservation and Heritage Impact Statement refers to changes associated with change of use making it possible to understand the nature and scale of works to be carried out which are minimal in terms of impact. Original plan format, one of the key features, will not be affected. Works for fire safety will be reversible.
- Board may wish to request detailed drawings of the proposed interventions and use its discretion to assess the entire development as a whole, such is the nature of objections and appeals to applications for development by John Scottus Educational Trust and considers that the provisions of Section 132 of the Planning and Development Act provide such an avenue for the Board to do so.
- Previous projects which involved significantly greater intervention in protected structures have been granted permission without any risk to the integrity of the structures where educational uses have and continue to operate on Northumberland Road without having an adverse impact on the residential conservation area.

6.3 Planning Authority Response

6.3.1 The Planning Authority did not respond to the grounds of appeal.

6.4 Observations

6.4.1 Observations are submitted by Pembroke Road Association in support of the appeal summarised as follows:

- Northumberland Road represents a particular era in the city's history and stands as a tribute to generations of residents who have maintained its style and character.
- Whilst education may be open for consideration within Z2 zoning, the objective does not intend that residential houses be converted to schools.
- Protected structure status means that it is not possible to create a school within the structure while complying with the building regulations, Department of Education Guidelines and Waste Management Regulations.
- Information regarding number of classrooms / pupils is unclear.
- Northumberland Road is a main arterial road into the city. Pedestrian safety is an issue given likely interaction with 47/49 Northumberland Road.
- School currently uses communal garden at Pembroke Gardens for recreation. Outdoor Play are to the rear of 60 Northumberland Road will go once the mews (4433/17 and ABP 301415 is built) Where will bikes be parked ?
- Severe loss of residential amenity arising from additional traffic.
- School promotes movement of children from their catchment to an area beyond which they can travel by sustainable modes.
- Proposal is material change of use and intensification of use on the with detrimental impact on historic fabric.
- Preference is for the property to revert to residential use.
- Enclosures demonstrate that number of schools in the area fills the local demand many times over.

- History of numerous alterations to John Scottus School at 47/49 Nothumberland Road demonstrates extent of alterations required for property to function as a school.

6.4.2 Observations from Colleesa Egan, 48 Nothumberland Road supports the third party appeal. Use of house as a vehicle for financial return is contrary to its protected structure status and the house should revert to residential use.

6.5 Further Responses

6.5.1 Response by McCutcheon Halley Planning Consultants to the first party response to the grounds of appeal on behalf of the appellant, Lansdowne and District Residents Association, is summarised as follows:

- Note and accept that the subject property is permitted for use as an office.
- The making of the application in the first instance is called into question. It is acknowledged that education is an appropriate use in Z2 lands.
- Precedent cases cited further support the issue highlighted in the appeal that a piecemeal approach to development should not apply.
- Each protected structure is unique and precedence for acceptable interventions to protected structures is not appropriate given need for site specific context.
- Question whether privately funded schools are not subject to the same high standards of design and quality of construction as publicly funded schools.
- 60 Northumberland Road is not suitable location for a school as there is no capacity for parking, set down outdoor play or expansion.
- Aim of the building regulations is to provide for the safety and welfare of people in and about buildings. Inappropriate to rely on future applications to resolve access issues when considered against the principles of proper planning.
- It is acknowledged that it can be difficult to incorporate Part M requirements into historically significant buildings and a thorough investigation of the accessibility requirements in the historic nature of the building and its environs is required

- Enabling works to facilitate the change of use must form part of the assessment of the proper planning and sustainable development of the building.
- Inadequate provision for disabled set down. Use of St Mary's Road for set down would require children attending the school to cross the road. Applicant did not detail the proposed pedestrian links from the set down to the school as requested.
- Suggestion that the Board could now invite plans and make a determination for change of use and works (something clearly not contemplated in the application) and comply with the provision of the Planning and Development Act is questionable and supports the basis of the third part appeal that sufficient information is not available to determine the application.

7 Assessment

7.1 Having examined the file, visited the site and considered the proposal in the context of the prevailing local and national policies, I consider that the key issues to be addressed in the appeal can be considered under the broad headings of the principle of the proposed change of use and likely impact on the amenities of the area. The issues of appropriate assessment also needs to be addressed. On the question of the limited nature of the application, which relates solely to the proposed change of use, and allegation of project splitting, I consider that it is reasonable to determine this issue in isolation having regard also to context of a future application for enabling works. I note that the third party appellant refers to the prohibition on outline permission applications for works to a protected structure (Article 21(b) of the Planning and Development Regulations 2001, as amended). I note the matter is addressed at Section 6.8.19 of the Architectural Heritage Protection Guidelines where it is stated that while outline permission cannot be granted for works to a protected structure or proposed structure, this does not preclude an outline application for change of use, so long as such change of use does not require any consequential works or otherwise have a material effect on the character of the structure. I note that the proposal is for permission for change of use and the application details acknowledge that a further application for permission will be required for any consequent works. The submitted Conservation and Heritage

Impact Statement sets out to address the likely implications in terms of consequential works related to compliance with Part M Access and Fire Safety requirements. I consider that it is reasonable to assess the proposed change of use in isolation and a condition would apply in relation to future works. As regards submission on behalf of the First Party that the Board use its discretion under the provisions of Section 132 of the Planning and Development Act to request detailed drawings of proposed interventions and assess both the proposed change of use and works, I consider that as such works were not contemplated within the application, as described in public notices, such an approach would significantly infringe on third party rights and would not comply with the provisions of the Planning and Development Act.

7.2 As regards the principal of the proposed change of use, I note the zoning of the site within a Z2 residential conservation area where the objective is to protect and/or improve the amenities of residential conservation areas. Education use is “open for consideration” within this zoning objective. I also note the nature of the proposal which is in essence an extension of the established John Scottus National School operating from 47/47 Northumberland Road opposite. I note that in light of the nature of the application Department of Education and Skills Technical Guidance Documents General Design Guidelines for Schools TGD-020 is not directly applicable to the case. The proposed change of use will allow the established school to increase numbers by up to 80 but most likely 60 students with two classes for each academic year. Application details indicate that the John Scottus school has operated at 47/49 Northumberland Road for more than 30 years and until recently from a building on Morehampton Road. It is submitted that the accommodation at 47/49 is somewhat cramped hence proposal for expansion. I am satisfied that the need for the proposed expansion has been justified.

7.3 In terms of the status of the building as a protected structure, I note policies with regard to the built heritage in Chapter 11 of the Dublin City Development Plan, in particular CHC2 “*To ensure that the special interest of protected structures is protected.*” and the promotion of changes of use of protected structures which have “*no detrimental impact on the special interest and that are compatible with their future long-term conservation.*” Section 6.8.8 of the Architectural Heritage Protection

Guidelines outlines. *“A planning authority should carefully consider any proposed change of use and its implications for the fabric and character of the structure. A new use may have implications for the structure which may not be immediately obvious, for example with regard to compliance with the building regulations.”* 6.8.9 *“In considering an application for the material change of use of a protected structure, the planning authority will have to balance its continuing economic viability if the change is not permitted with the effect on the character and special interest of its fabric of any consequent works, if permission is granted. Where, having considered these issues, a planning authority considers that the alterations required to achieve a proposed change of use will not have an undue adverse effect on the special interest of the structure, the proposals may be granted subject to conditions as appropriate.”*

I am satisfied that the envisaged works, which in any event will be subject to a further planning application, will not in principle have an undue adverse effect on the special interest of the structure therefore I consider that the principle of the proposed change of use is acceptable. In this regard I consider that the nature of the interventions envisaged are necessary in the context of keeping the building in active use, permissible and capable of being reversed if use were to revert to residential or other use in the future.

- 7.4 On the matter of impact on the amenities of the area, I note that the immediate neighbouring properties on Northumberland Road are not in residential use. The Northumberland Road Dental Institute occupies No 58 while No 62 is in office use. The closest residential properties are those adjoining to the east fronting onto Landsdowne Park. In light of the nature of the use as outlined within the application, including the hours of operation and envisaged use of the outdoor play area, I am of the view that the impacts arising on established residential amenity in terms of noise and other disturbance can be appropriately mitigated.
- 7.5 As regards traffic, I note that in response to the request for additional information the proposal was revised in terms of the omission of the proposed set down area to Landsdowne Park. In response to the grounds of appeal the first party submitted that disabled access could be provided from Landsdowne Park as required subject to

strict control by the Principal. I note the technical reports from Dublin City Council indicated that such an arrangement would be acceptable having regard to the likely level of traffic arising. This is in my view appropriate and can be addressed by condition. The omission of the set down area provides the opportunity for the provision of an outdoor play area for the use of the children attending the school. I note the submission of the third-party observers with regard to the permission for detached dwelling to the rear of the site, (4433/17 ABP301415-18) however I note that it would not be possible to implement this permission in conjunction with the proposed change of use.

- 7.6 As regards third party concerns regarding traffic hazard and congestion, I note that the modal split information submitted shows of the current 200 students (160 families) the car based modal share is 40%, while 41% walk or cycle and 19% take bus or train. The implementation of school travel plan aims to increase the move to more sustainable modes. I consider that convenience will strongly influence patterns and choices and in my view the traffic arising can be appropriately managed as part of the wider traffic and transport management strategy. As regards pedestrian safety and likely interaction with 47/49 Northumberland Road, clearly some degree of organisation and traffic management will be required and liaison with Dublin City Council in this regard is recommended. I conclude that the proposal change of use to school would be acceptable in terms of traffic safety and convenience.
- 7.7 Having regard to the nature and scale of the proposed development in a fully serviced built up urban area, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant individually or in combination with other plans or projects, on a European site.
- 7.8 I conclude that the application has demonstrated a need for the proposed school and that the proposed new use presents an opportunity to revitalise, repair and re-use the protected structure in a sustainable way. Potential works associated with the change of use, which in any event will be subject to a further planning application, do not in principle present excessive or unusual impacts on the character or fabric of the

structure and any necessary interventions can be sufficiently mitigated to ensure the protection of same. This conclusion is clearly without prejudice to any future application for such works.

8.0 Recommendation

Having considered the context of the application, and the established John Scottus school at 47/49 Northumberland Road, the decision of the planning authority, the provisions of the Dublin City Development Plan 2016-2022, the grounds of appeal, observer's submissions and responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be granted for the reasons and conditions and subject to the conditions set out hereunder.

Reasons and Considerations

Having regard to the location of the site and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed change of use, would be acceptable in terms of its impact on the character of the protected structure, would not seriously injure the amenities of the area or of property in the vicinity, would not give rise to traffic hazard and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The change of use herein permitted shall in be in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted on the 1st day of November 2018 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the

developer shall agree such details in writing with the planning authority and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission authorises a change of use from office to educational use only. Notwithstanding the details submitted the permission does not authorise enabling works to the protected structure which shall be subject to a prior grant of planning permission.

Reason: In the interest of clarity and to ensure an appropriate standard of development / conservation of the protected structure.

3. The developer shall liaise with Dublin City Council with regard to implementation of measures outlined in the School Travel Plan and with regard to management of pedestrian and cycle movement to and from the school building.

Reason: In the interest of residential amenity.

4. School set down / parking area from Landsdowne Park shall be provided solely to allow for disabled for users to access the premises and not for general use. Open area to the rear of the building to Landsdowne Park shall be provided as a secure outdoor play area for the use of children attending the school.

Reason: In the interest of traffic safety and in the interest of residential amenity and safety.

5. The proposed school shall not operate outside the period of 08:00 to 19:00 hours Monday to Friday inclusive except public holidays and shall not operate on Saturdays Sundays or public holidays.

Reason: In the interest of residential amenity.

Bríd Maxwell
Planning Inspector

27th March 2019