



An  
Bord  
Pleanála

## Inspector's Report ABP-310317-21.

<b>Development</b>	Demolition of flat roofed dwelling and construction of 2-storey mews dwelling.
<b>Location</b>	Rear of 10/10A Lansdowne Terrace, Shelbourne Road and Lansdowne Lane, Dublin 4.
<b>Planning Authority</b>	Dublin City Council South.
<b>Planning Authority Reg. Ref.</b>	2338/21.
<b>Applicant</b>	Derek Twiss
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Derek Twiss.
<b>Observer</b>	Alfred Guinevan Grace McRandall (Lansdowne and District Residents Association). Siobhan Collins Paul Philip

Pauline Philip

**Date of Site Inspection**

17<sup>th</sup> July 2021.

**Inspector**

Philip Davis.

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## **1.0 Introduction**

This appeal is by the applicant against the decision of the planning authority to refuse permission for a pair of apartments (in a 3-storey structure) on a mews site for reasons of impact on private open space and impact on local amenities. A number of observations have been submitted in support of the decision to refuse. A previous appeal for a pair of mews dwellings on the site was refused by ABP.

## **2.0 Site Location and Description**

### **2.1. Lansdowne Lane, Dublin 4**

Lansdowne Lane is within a mature suburb in Dublin 4, linking the Shelbourne Road with the west stand of Lansdowne Road (Aviva) stadium. It is in within an area that developed along the historic Shelbourne Road (formerly Beggersbush Road), which suburbanised with the expansion of the city in the late 19<sup>th</sup> to early 20<sup>th</sup> Century. The lane provides access to the rear of the semi-detached dwellings on Lansdowne Road to the south and the side of what was the long rear garden of a dwelling on the Shelbourne Road, terminating at the Dart Station next to the stadium. In more recent years mews style housing has been developed on either side in addition to a small carpark on the south side. A terrace of three mews dwellings extends along the east side of the lane and is known as Berkeley Mews. The appeal site is the rear of 10/10A Lansdowne Terrace, which is the large semi-detached dwelling facing the Shelbourne Road. It was until recently part of the overall site, but a recently constructed fence now separates the appeal site from 10/10A.

### **2.2. Appeal site**

The appeal site is the part of what was the rear garden of 10/10A Lansdowne Terrace, a rectangular site between Berkeley Mews and the main house. There is a small single storey structure on the site next to the stone boundary wall along the lane. The floorspace of this structure, which is described on the site notices as a dwelling is given as 21 m<sup>2</sup>. Site area is given as 145 m<sup>2</sup>.

### 3.0 Proposed Development

The proposed development is described as for the demolition of the flat roofed dwelling as granted under **ABP-307569-20** and a new development consisting of a 2-bedroom apartment (c. 76 m<sup>2</sup>) at ground floor level and one 2-bedroom duplex apartment (c.93 m<sup>2</sup>) at first and second floor level. Total floorspace is given as 179 m<sup>2</sup> with a plot ratio of 1.2 and 70% site coverage.

### 4.0 Planning Authority Decision

#### 4.1. Decision

The planning authority decided to refuse permission, for two reasons I'd summarise as follows:

- The reduction in the quantum and quality of private open space would be injurious to the amenities of that property and thus contrary to the Z2 zoning designation.
- The proximity of a 3-storey development would result in a visually obtrusive form of development that would represent over-development.

#### 4.2. Planning Authority Reports

##### 4.2.1. Planning Reports

- Notes the site is zoned Z2 and associated policy for infill/mews type developments.
- Notes submissions from observers, all objecting for a number of reasons.
- Outlines concerns that the previous reasons for refusal for a pair of dwellings on the site have not been addressed.
- Notes ambiguities about the planning status of the overall site and landholding.
- Internal amenity and design considered appropriate.
- Refusal recommended.

#### 4.2.2. Other Technical Reports

**Drainage:** No objection subject to conditions.

**Transport:** Outlines concerns on traffic grounds and requests further information.

#### 4.3. Prescribed Bodies

No responses

#### 4.4. Third Party Observations

Seven separate observations were submitted outlining a number of planning objections.

### 5.0 Planning History

**ABP-307569-20 (2334/20).** Split decision – permission granted for the demolition of a single storey extension on the site and the making good of the rear (north) elevation of the house. Permission was refused for the construction of 2 semi-detached dwellings to the rear of the site – three reasons given, relating to the loss of private open space, the size and scale relative to other buildings, and its visual dominance (Policy CHC4 of the CDP).

**2335/20:** Application withdrawn.

The planning report notes a warning letter under Section 152 sent prior to works on **2335/20**.

### 6.0 Policy Context

#### 6.1. Development Plan

The site is in an area zoned as Z2 Residential neighbourhoods (Conservation Areas), with the zoning objective '*to protect and/or improve the amenities of residential conservation areas*'. In such zoned areas, it is the policy of the City Council (CHC4):

*To protect the special interest and character of all Dublin's Conservation Areas. 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 other important features*
- 3. Improvement of open spaces and the wider public realm, and re-instatement 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.*

General standards for mews dwellings are set out in section 16.19.16 of the Dublin City development Plan.

## **6.2. EIAR**

Having regard to the small-scale nature of the proposed development within a mature developed urban area, and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

## **6.3. Natural Heritage Designations**

There are no EU designated habitats on or in the near vicinity of the site. The closest such habitats are the various littoral and marine SAC's and SPA's of Dublin Bay to the east. The **South Dublin Bay SAC**, site code 000210 and the **South Dublin Bay and River Tolka Estuary SPA** site code 004024 are just under 1 km to the east of the site.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

- It is noted that the site is within very easy walking distance of the Dart station and several Dublin Bus routes.
- It is stated that the site area has been reduced from the previous application to ensure sufficient private open space for the main house, which, it is stated, is no longer in the control of the applicant. The open space for the property on Shelbourne Road is now stated to be 100 sqm.
- It is argued (the Board is referred to the main planning report submitted with the application) that the proposed development is fully in line with national and local policy. It is noted that the existing dwelling is small and substandard.
- Notes that the planning authority considered the principle of demolishing and replacing the existing dwelling to be acceptable.
- A shadow assessment is submitted arguing that the proposed development would not significantly impact on the amenities of the main house.
- It is noted that the planning authority consider the internal amenities of the apartments to be acceptable – it is argued that each has sufficient private amenity space (30 sqm for dwelling 1, a 24.7 sqm terrace for dwelling 2).
- It is argued that the scale and bulk of the proposed development is in keeping with the height of the existing roof line of the adjoining residential properties (illustrations attached).
- It is argued that a zero parking provision is appropriate in this area which is well served by public transport and very accessible.
- The Board is referred to technical documentation attached with the original application with regard to the application being consistent with all policy guidelines and standards set out in the Development Plan.
- A number of photographs are attached in support of the appeal.



## 7.2. Planning Authority Response

The planning authority has not responded to the grounds of appeal.

## 7.3. Observations

### **Alfred Guinevan of 8 Lansdowne Terrace**

- It is stated that the main house is in multiple occupancy and has very inadequate private open space.
- The previous Board decision is noted.
- It is submitted that the application was not properly notified – it is argued that the site should not be considered separate to the main house.
- It is argued that the main house is in multiple occupancy without permission and has more units than indicated on the application documents.
- It is argued that there has been no change from the previous refusal to justify changing the decision.
- It is argued that the structure would be ugly and overbearing.
- It is argued that the remaining garden is functionally less than the 100 sqm claimed.
- It is suggested that sheds have been erected on what is supposed to be amenity space.
- It is argued that it will exacerbate existing parking problems in the area.
- The Board is requested to uphold the decision to refuse permission.

### **Siobhan Collins of 8 Lansdowne Terrace**

- Notes the planning history of the site and the previous Board refusal.
- Argues that the main house has 10 rental units and this represents an unauthorised development.
- It is argued in this context that the remaining private open space is inadequate.

- It is argued that it is contrary to the Z2 zoning, to policy CHC4 of the development plan, and represents overdevelopment of the site and would significantly impact on the amenities of adjoining properties. It is also submitted that it would exacerbate existing parking problems.
- It is argued that the appeal has not accurately stated the issue regarding the subdivision of the site.
- It is argued that the appeal is vexatious in nature.

**Grace McRandal (LADRA)**

- The Board is requested to uphold the decision to refuse. It is argued that there is no substantial alteration from the previous development that was refused.
- It is not accepted that the applicant is correct to argue that the site has been subdivided.
- It is argued that the existing main house has 10 units and so would be severely deficient in private open space.

**Paul Philip of 1 Berkeley Mews**

- It is argued that the proposed development is contrary to the objectives of the z2 zoning designation and policy CHC4 as it does not seek to protect or enhance the existing character of the area.
- It is argued that it is bulky and out of scale with the area.
- The planning history of the site is noted.
- It is argued that placing the building line in front of the Berkeley Mews houses is unacceptable and would damage local amenities.
- It is noted that the planning authority did not accept that the site should be considered separate from the main house.
- It is argued that it would interfere with maintenance of no. 1 Berkeley Mews.

**Pauline Philip, 1 Berkeley Mews**

- The planning history of the site is noted.
- It is argued that the planning authority provided a fair and evidence based assessment of the development, the Board is requested to uphold its decision.
- It is argued that the area is not suitable for further such development.
- It is argued that it is contrary to the zoning designation and related policy CHC4.
- It is submitted that the design is out of character with the area.
- It is submitted that setting it in front of the building line of Berkeley Mews creates an unacceptable form of development.
- It is denied that the structure is a 'habitable dwelling' – it is argued that it is a shed and is subject to enforcement action.
- It is argued that it would have an unacceptable impact on parking in the area.

## **8.0 Assessment**

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Preliminary issues
- Principle of development
- Amenities
- Traffic and access
- Other planning issues
- Appropriate assessment

### **8.1. Preliminary issues**

I note that the applicant claims that the appeal site is a habitable dwelling and that it is now a separate unit from the main house – while the applicant is the same as for the previous appeal on the site it is stated in the file documentation that the main

house has a new owner. There is, however, no evidence on file that the 'house' has planning permission or if there was ever a permission for the unit (it does have notional permission from the last appeal for its demolition). I note that in the previous appeal the Inspector (paragraph 7.2.5 of her report) referred to it as a garden shed, and there is no evidence that it received permission to change to residential. It is not clear if this structure is inhabited – no access is visible either from the street or through the newly constructed fence between it and the main house. I also note that the observers state that the dwelling is in use for multiple occupancy with no permission. There appears to be ongoing enforcement actions relating to the site, but the planning report was not specific on details.

The question arises as to the true nature of the proposed development and whether granting permission would facilitate unauthorised works or changes in use. The planning authority appears to have refused permission without seeking to fully clarify such issues. I would certainly question a number of aspects of the existing use of the site and the main house and the accuracy of some of the implied assertions made in support of the application, but I do not consider that it is possible with the information provided to come to unequivocal conclusions.

If the Board is minded to grant permission, I would recommend that it seeks clarification from the applicant as to whether the unit is in occupation, and whether it has planning permission for this occupation. I would also consider it necessary to clarify whether multiple occupancy of the main house is permitted in order to make a meaningful calculation of whether it has sufficient private open space and whether the property can be considered to be subdivided.

Notwithstanding my concerns, I consider that there is sufficient information on file to come to conclusions based on the proposed development as submitted and described on the site notice.

## **8.2. Principle of development**

The appeal site is in a Z2 residential conservation area and is adjacent to the curtilage of a protected structure. In such areas, mews developments are generally considered acceptable subject to the criteria set out in the development plan, specifically policy CHC4 and general planning considerations. The Z2 designation is clearly appropriate for the area as while there are no particularly important

buildings or protected structures in the vicinity, the overall urban quality of the area and its surrounds is high, with the mid to late 19<sup>th</sup> century terraces generally in good repair with most original external fittings intact and the more recent developments in the area have generally been of a good quality.

Within the context of an area designated for the protection of amenities, this is an inner urban area with very good connections to the city centre with local bus and tram services within easy walk. As such, within the context of national and regional policy to encourage higher density residential development within such areas, there is a presumption in favour of new dwellings when it can be demonstrated that it will not impact on amenities or the conservation qualities of the area.

The planning history of the mews is highly ambiguous for reasons discussed in section 8.1 above, but ABP upheld the decision to refuse permission for a pair of mews dwellings on the site in its recent decision, and the development plan has not changed since that decision, and neither has there been relevant changes in national policy. I would consider the proposed development to be very similar in nature to that proposed. I would question whether the assertion that the site is now in separate ownership is relevant unless there was clear evidence that it has in fact been subdivided.

I would conclude that while the principle of a new mews dwelling on the site is in accordance with the zoning designation and the general planning history of the mews each application should be judged on its own merits with particular regard to the Z2 designation and the general guidelines and standards set out in the Development Plan. I will address whether it is in accordance with these standards in the sections below.

### **8.3. Amenities**

The proposed development is considered to meet minimum interior light and amenity standards by the planning authority for a pair of such units. While the applicant claims that 100 m<sup>2</sup> (the minimum set out in the development plan) has been allowed for the existing house, the situation with this is very ambiguous as it is uncertain to the number of people within the house and whether it is within multiple occupancy. I noted during my site visit a number of structures within the garden – it is unclear to me if the claimed amenity space really is available. I consider the

situation to be too ambiguous to be certain that the required minimum level is being provided. I would also consider that while it may achieve a notional minimum level, the quality is substandard with regard to the apparently very high occupancy level of the building. In this respect I note that the development plan (16.10.16k) states with regard to development standards for mews dwellings:

*If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for multiple dwellings and for mews development.*

As such, I would question whether the minimum standard of 100 m<sup>2</sup> is appropriate in these circumstances.

The proposed structure is 3 storeys in height relative to the 2 storey dwellings on either side, and in particular is placed well in front of the existing building line set by the Berkeley Mews development. I particularly note the relative positioning of the building next to the adjoining mews – it seems possible that it will interfere with evening sunlight to the front of this dwelling. While a shadow assessment was submitted which indicates that there is no interference with regard to BRE standards, I would still have concerns over the general loss of light and overbearing nature of the structure on the ground floor habitable area of no. 1 Berkeley Mews. I see no justification provided for such a high building which breaks the building line in this manner even if it meets the minimum BRE daylight requirements – I consider that if a mews development is to be considered appropriate for this site it should follow the established building line.

In overall design terms, the building is bulky and more closely reflects the scale the dwellings on the main road than the smaller mews developments on this lane. Little attempt has been made to scale it down relative to the previously refused mews houses. I consider that the third storey represents an unacceptable level of overdevelopment on the site, and I concur with the planning authority that this is contrary to the objectives of a Z2 zoned area.

#### 8.4. **Parking and access**

The applicant argues that as the site is very well provided with public transport and is close to the city centre, there is no requirement for curtilage parking. While the Development Plan (Section 16.38) sets out maximum parking requirements and allows for zero parking in some development, subject to the adequate provision of secure cycling spaces as well as other criteria, it is open to allowing this to be addressed on a case by case basis. I note that providing a new access for the proposed units would reduce the number of informal parking spaces available on the street.

I would concur that there is a strong argument that exempting curtilage parking would be acceptable in principle for a small development in this particular area, but I am concerned that there is no obvious cycle parking provision provided, although the Board could address this by way of condition if it was minded to grant permission.

#### 8.5. **Other planning issues**

The site is close to the historic flood plain of the Dodder River but there are no indications that it is prone to flooding. I note that in recent years there has been very significant public investment in improving the flood barriers along this river from its confluence with the Liffey up to Ballsbridge.

The site is fully serviced with water and sewerage and there are no indications that the proposed two apartment units could not be serviced.

There are no protected structures or recorded ancient monuments in the vicinity.

I do not consider that there are any other planning issues raised in this appeal.

#### 8.6. **Appropriate Assessment**

There are no EU designated habitats in the immediate vicinity of the site. The site is about 1 km west of the closest Natura 2000 sites in Dublin Bay. It is likely that surface water drains to the bay, to the **South Dublin Bay** and **River Tolka Estuary** SPA and SAC, site codes 004024 and 000210 respectively using the city drainage system. The site is fully served by the public sewer and water system, and the proposed change of use would not substantively increase drainage or run-off, so

there are no pathways for pollution or any other possible direct or indirect impact on the conservation interests of those designated sites.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004024 or 000210 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **9.0 Recommendation**

I recommend that the Board uphold the decision of the planning authority to refuse planning permission for the reasons and considerations set out below. These are generally similar to the reasons and considerations for the reasons for refusal in the previous appeal for the site – ABP-307569-20.

## **10.0 Reasons and Considerations**

1. The subject site is located on lands zoned as Zoning Objective Z2 Residential Conservation Area where it is an objective “to protect and/or improve the amenities of residential conservation areas”. The proposed development would result in an inadequate quantity of and poor-quality private amenity space for 10/10a Lansdowne Terrace. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the scale, height and proximity of the proposed 3-storey structure and their proximity to the boundaries of the adjoining dwellings at numbers 10/10a Lansdowne Terrace and number 8 Lansdowne Terrace, it is considered that the proposed development would seriously injure the residential amenity of the dwellings and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the scale, bulk and height of the proposed development and the inadequate separation distances proposed, it is considered the proposed



development would constitute a visually obtrusive and dominant form of development in this residential conservation area and would, therefore, be contrary to Policy CHC4 of the Dublin City Development Plan 2016-2022.

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Philip Davis  
Planning Inspector

19<sup>th</sup> July 2021