



Development	Demolition of existing single-storey structure and construction of 2-storey over basement, 3-bedroom detached dwelling.
Location	Site at Lansdowne Lane, Dublin 4 to the east of No. 10/10a Lansdowne Terrace and west of No. 1 Berkley Mews, Lansdowne Lane.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4201/21
Applicant(s)	Colin Daly
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Colin Daly
Observer(s)	(1) Paul Philip (2) Alfred Guinevan (3) Grace McRandal

(4) Siobhan Collins

Date of Site Inspection

2nd December 2022

Inspector

Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 170 m² and comprises land located on the northern side of Lansdowne Lane, Dublin 4. The site originally comprised part of the rear garden of No. 10/10a Lansdowne Terrace, a 2-storey semi-detached dwelling which fronts onto Shelbourne Road to the west. This rear garden has already been subject to development in the form of a terrace of 3 no. 2-storey dwellings (Berkely Mews) located to the east of the subject site. The site is separated from the remaining rear garden of No. 10/10a Lansdowne Terrace by a concrete post and timber fence and has no direct vehicular or pedestrian access. The site currently accommodates a single-storey shed structure.
- 1.2. The site fronts onto Lansdowne Lane to the south, is bounded by No. 1 Berkely Mews immediately to the east, by the rear garden of No. 10/10a Lansdowne Terrace to the west and by the rear garden of No. 8 Lansdowne Terrace to the north. The site boundary facing onto Lansdowne Lane comprises the original granite boundary wall of No. 10/10a Lansdowne Terrace. On-street parking occurs directly to the front of the site, while double-yellow lines extend along the southern side of the carriageway.
- 1.3. The Aviva Stadium is located at the eastern end of Lansdowne Lane beyond the application site. The neighbouring development on the southern side of Lansdowne Lane is primarily residential in nature, including a religious order (Sisters of Our Ladys of Apostle) located at the corner of Shelbourne Road and Lansdowne Lane to the south-west of the application site.

2.0 Proposed Development

- 2.1. The proposed development will consist of:
 - (i) demolition of existing, single-storey structure on site.
 - (ii) construction of a 2-storey over basement level, 3-bedroom contemporary style, flat-roofed, detached dwelling. The dwelling will be provided with private amenity space in the form of front and rear patio spaces at ground floor level and a terrace area at 1st floor level.

(iii) provision of new vehicular and pedestrian entrances from Lansdowne Lane and 1 no. car parking space comprised within the proposed garage at ground floor level; and

(iv) drainage, landscaping, boundary treatments and all ancillary works necessary to facilitate the proposed development.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council issued Notification of the Decision to Refuse Permission for the proposed development on 25th February 2022 for 2 no. reasons as follows:

(1) Having regard to the scale, height and proximity of the proposed mews dwelling to the common boundary with No. 10/10a Lansdowne Terrace, it is considered that the proposed development would appear visually overbearing on the rear garden and seriously injure the residential amenity of this property. The proposed development would, therefore, be contrary to the Z2 objective for the site to protect the residential amenity of residential conservation areas and the proper planning and sustainable development of the area.

(2) The proposed development would fail to provide an adequate quantity and quality of usable private open space for the occupants of the proposed mews dwelling and, as such, would be contrary to the private open space standards of the Dublin City Development Plan 2016-2022 and Policy QH21 of the plan to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity. The proposed development would, therefore, seriously injure the residential amenity of the area and would be contrary to proper planning and sustainable development.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

3.2.3. **Other Technical Reports**

3.2.4. **Engineering Department Drainage Division (25th January 2022):** Recommends that Further Information be requested in relation to: (1) a revised Flood Risk Assessment to address (i) management of flood risk through raising of floor levels, (ii) substitution of highly vulnerable residential use at ground floor level, (iii) impact of residual risks including the risk of flood defence failure, (iv) emergency procedures, and (v) any potential flood risks due to the basement and construction and operational stages.

3.2.5. **Transportation Planning Division (18th February 2022):** No objection to the proposed development subject to conditions.

3.3. **Prescribed Bodies**

3.4. **Irish Rail:** None received.

3.5. **Irish Water:** None received.

3.6. **Third Party Observations**

3.6.1. A total of 8 no. third party observations were made on the application by: (1) Edward Frayne, 4 Lansdowne Terrace, Ballsbridge, Dublin 4, (2) Alfred Guinevan, 8 Lansdowne Terrace, Shelbourne Road, Ballsbridge, Dublin 4, (3) Pauline Philip, 1 Berkely Mews, Ballsbridge, Dublin 4, (4) Paul Philip, 1 Berkely Mews, Ballsbridge, Dublin 4, (5) Grace McRandal, Lansdowne and District Residents Association, 26 Shelbourne Road, Dublin 4, (6) Coleesa Egan, 48 Northumberland Road, Ballsbridge, Dublin 4, (7) Shane Friel, 26 Ballsbridge Wood, Crampton Avenue, Ballsbridge, Dublin 4, (8) Siobhán Collins, 8 Lansdowne Terrace, Shelbourne Road, Ballsbridge, Dublin 4.

3.6.2. The issues which are raised can be summarised as follows: (1) overdevelopment of site, (2) excessive scale and height of development, (3) development does not reflect the character of adjoining buildings and streetscape (Z2 zone), (4) overlooking of neighbouring residential properties, a convent and a crèche facility, (5) interference

with ancient lights and shading of nearby houses and gardens, (6) impact of basement on drainage system and potential for damage to adjoining property, (7) misleading details in planning application, (8) inadequate amenity space for the proposed dwelling and the occupants of Nos. 10 and 10a Lansdowne Terrace, (9) impact of garage on local parking arrangements, (10) planning application does not overcome 3 no. previous refusals of planning permission on the site, (11) identified planning precedents do not support the current proposal, (12) removal of historic wall, (13) unbroken gable wall will create a wind tunnel with little direct sunlight and poor amenity, (14) flood risk, (15) proximity of proposed development will create maintenance issues for No. 1 Berkely Mews, (16) subject site has been incorrectly identified as an infill / mews / brownfield site rather than the rear garden of No. 10 Lansdowne Terrace (17) proposed development will increase housing stock in an area well served by public transport and surrounding services and facilities, (18) inappropriate subdivision of rear garden of No. 10 Lansdowne Terrace, (19) site is located in outer suburbs and not the inner city as cited in the planning application, (20) noise impacts, (21) setting of inappropriate precedent, (22) waste bins on laneway would be a hazard to motorists, pedestrians and disabled residents and would result in littering.

4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. 2338/21; ABP Ref. 310317-21:** Planning permission refused by An Bord Pleanála for development comprising the demolition of the flat-roofed dwelling granted under Planning Application Reg. Ref: 2334/20, ABP Ref. 307569-20, the removal of part of the wall addressing Lansdowne Lane and a new development comprising 1 no. 2-bedroom apartment at ground floor level and 1 no. 2-bedroom duplex apartment at 1st and 2nd floor level and all landscaping works, boundary treatment and electrical services.
- 4.2. Planning permission was refused for 2 no. reasons including: (1) the proposed development would seriously injure the residential amenity of 10/10a Lansdowne Terrace and 8 Lansdowne Terrace by reason of its scale, height and proximity to boundaries and (2) the proposed development would be a visually obtrusive and dominant form of development in this residential conservation area having regard to its scale, height and bulk and the inadequate separation distances proposed.

- 4.3. **Planning Authority Reg. Ref. 2334/20; ABP Ref. 307569-20:** Planning permission sought for the demolition of a single-storey extension to the rear of 10/10a Lansdowne Terrace, the demolition of a flat roofed garden dwelling, the removal of part of the existing wall addressing Lansdowne Lane and the proposed construction of 2 no. 3 bedroom, 3-storey, semi-detached dwellings fronting onto and with vehicular access off Lansdowne Lane.
- 4.4. An Bord Pleanála issued a split decision in relation to this application on 30th October 2020 whereby planning permission was granted for the demolition of the single-storey rear extension, the making good of the rear elevation thereafter and the demolition of the garden shed.
- 4.5. Planning permission was refused for the removal of part of the existing wall addressing Lansdowne Lane and the construction of 2 no. 3 bedroom, 3-storey dwellings for 3 no. reasons including: (1) inadequate quantity and quality of private amenity space for 10/10a Lansdowne Terrace, (2) the scale, height and proximity of the proposed dwellings to the boundaries of the adjoining dwellings at 10/10a Lansdowne Terrace and 8 Lansdowne Terrace would seriously injure the residential amenity of the private open space of the dwellings, and (3) the proposed development would be a dominant form of development in this residential conservation area having regard to its scale, bulk, height and inadequate separation distances proposed.
- 4.6. **Planning Authority Reg. Ref. 2416/91; ABP Ref. PL29.5.88424:** Planning permission refused by An Bord Pleanála on 18th March 1992 for the construction of a separate dwelling on the grounds of No. 10 Lansdowne Terrace with access from Lansdowne Lane.

5.0 Policy and Context

5.1. Dublin City Development Plan 2022-2028

- 5.1.1. The development of the subject site was governed by the provisions of the Dublin City Development Plan 2016-2022 at the time this planning application was lodged. The 2022-2028 development plan has been adopted in the interim and is the relevant local planning policy document for the purposes of adjudicating this case.

5.2. Land Use Zoning

- 5.2.1. The site is subject to land use zoning “Z2” (Residential Neighbourhoods – Conservation Areas) which has the objective “to protect and / or improve the amenities of residential conservation areas”. Residential uses are permissible under this zoning objective.
- 5.2.2. Section 14.7.2 of the development plan states that the overall quality of a Z2 area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.
- 5.2.3. **Policy BHA9 (Conservation Areas):** 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.

5.3. Development Management Standards: Houses

- 5.3.1. Houses shall comply with the standards set out in Section 5.3: ‘Internal Layout and Space Provision’ of the DEHLG ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007). The target **gross floor area** for a 3-bedroom, 6-person, 3-storey house is 110 m².
- 5.3.2. A minimum **private open space** standard of 10 m² per bedspace normally applies, and generally, up to 60-70 m² of rear garden area is considered sufficient for houses in the city. These standards may be relaxed on a case-by-case basis, based on a qualitative analysis of the development.
- 5.3.3. The site is located in Zone 2 of the city with respect to car parking provision, and within which, a standard of 1 space per dwelling applies.

5.4. Backland Housing

5.4.1. Backland development is generally defined as development of land that lies to the rear of an existing property or building line. Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. Backland housing can comprise of larger scale redevelopment with an overall site access; mews dwellings with access from a rear laneway or detached habitable dwellings to the rear of existing housing with independent vehicular access. Consideration of access and servicing and the interrelationship between overlooking, privacy, aspect and daylight / sunlight are paramount to the success and acceptability of new development in backland conditions.

5.4.2. Applications for backland housing should consider the following:

- Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.
- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
- The impacts on either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, with a minimum rear garden depth of 7 metres.
- A relaxation in rear garden length may be acceptable, once sufficient open space is provided to serve the proposed dwelling and that the applicant can

demonstrate the proposed backland dwelling will not impact negatively on adjoining residential amenity.

- 5.4.3. All applications will be assessed on a case-by-case basis. In certain instances, Dublin City Council may permit relaxation of some standards to promote densification and urban consolidation in specific areas. The applicant must demonstrate high quality urban design and a comprehensive understanding of the site and the specific constraints to justify the proposal.

5.5. **Mews Dwellings**

- 5.5.1. Section 15.13.5 of the development plan notes that mews dwellings are an integral part of backland development across the city and are typically accessed via existing laneways or roadways serving the rear of residential developments.
- 5.5.2. Traditional and/ or high-quality contemporary design for mews buildings will be considered. The materials proposed should respect the existing character of the area and utilise a similar colour palette to that of the main structure. The distance between the opposing windows of mews dwellings and of the main houses shall ensure a high level of privacy is provided and potential overlooking is minimised.
- 5.5.3. Private open space shall be provided to the rear of the mews building to provide for adequate amenity space for both the original and proposed dwelling and shall be landscaped so as to provide for a quality residential environment. The open space area shall not be obstructed by off-street parking. 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 the main house divided into multiple dwellings and for mews development.
- 5.5.4. New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The height of mews building should not negatively impact on the views from the main property. Development will generally be confined to two-storey buildings. The roof profile for mews buildings should be simple and in keeping with the character of the area.

5.5.5. Parking provision in mews lanes, where provided, may be in off-street garages, forecourts or courtyards, subject to conservation and access criteria. Car-free mews developments may be permitted in certain circumstances where there are specific site constraints and where alternative modes of transport are available. Each development will be assessed on a case-by-case basis.

5.6. **Natural Heritage Designations**

5.6.1. None.

5.7. **EIA Screening**

5.7.1. Having regard to the nature and scale of the proposed development, comprising 1 no. residential dwelling in an established residential area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. A first-party appeal against the Planning Authority's Notification of the Decision to Refuse Permission for the proposed development has been lodged by Hughes Planning & Development Consultants on behalf of the applicant. It is requested that An Bord Pleanála grant planning permission for the proposed development based on its compliance with the development plan and relevant national and regional planning policy documents.

6.1.2. The appeal submission also includes a revised design proposal for the site which seeks to overcome the Planning Authority's refusal reasons (hereafter referred to as the Option 2 scheme). The appeal submission also includes a Daylight / Sunlight analysis and a Civil Engineering Planning Report in response to the flooding concerns of Dublin City Council's Drainage Department. The content of these assessments has been reviewed and considered in the adjudication of this appeal case.

6.1.3. The grounds of appeal can be summarised as follows:

- The site offers a unique opportunity for an infill development given its location in an established residential area. Given the array of building types and architectural styles featuring within the surrounding area, the development as proposed would not negatively impact on the character of the area.
- The proposed development is consistent with the site's Z2 zoning objective and does not have an adverse impact on adjoining residential amenities.
- The proposed development represents the more efficient and sustainable use of centrally located, zoned and serviced land and provides a high standard of residential accommodation.
- The proposal will significantly enhance the streetscape along Lansdowne Lane by providing a contemporary and innovative design solution which relates well to its surrounding context.
- The height of the proposed development is below the ridge height of the neighbouring properties and has been designed to avoid any overbearing impacts.
- The proposed private amenity space is of an appropriate scale and quality to provide a high level of residential amenity for future occupants. It is acknowledged that the proposed provision (44 m²) falls below the required development plan standards, but the infill nature of the site and the quality of the space should be acknowledged.
- The proposed development complies with national and regional planning guidance in relation to compact urban development.
- The proposed development addresses the 2 no. recent refusals of planning permission on the subject site (Planning Authority Reg. Refs. 2334/20 and 2338/21 refer) through its reduced height, bulk and scale and increased separation distance to No. 10/10a Lansdowne Terrace.
- A number of planning precedents in the immediate vicinity of the site and the wider area of Dublin City Council support the proposed development (3 no. cases identified, including a 2 storey/part 3-storey over ground with basement

mews dwelling to the rear of 58 Lansdowne Road, Dublin 4 approx. 50 m from the subject site).

- The proposed development complies with the Z2 zoning objective of the site and development plan policy in relation to mews dwellings, conservation areas and infill dwellings and policy SC 25 (urban form and architecture) which promotes high standards of urban design. The proposed development also complies with development plan standards concerning residential density, parking and plot ratio.
- The site of No. 10/10a Lansdowne Terrace is not within the applicant's ownership. The subject site is separated from the main dwelling by a concrete wall and the proposed development will not reduce the amount of private open space available to the main dwelling.
- The subject site is close to the border of the inner city where a reduced standard of private open space of 5-8 m² per bedspace applies. There are also many parks and communal spaces close to the site.
- The subject site is located in Flood Zone A. The Civil Engineering Planning Report which accompanies the appeal concludes that the risk of flooding is low due to the flood defences which are in place, together with no previous history of flooding occurring on the site. Planning precedents are identified where development (including basements) has previously been granted in areas designated as Flood Zone A.
- The applicant would accept a planning condition which requires the 1st floor rear kitchen and dining room windows to be finished in opaque glazing to avoid overlooking of No. 8 Lansdowne Terrace. It is noted that design option no. 2 has an increased set-back from the boundary with this property, with no windows proposed on the rear elevation.
- The Daylight Analysis and Overshadowing Assessment which accompanies the appeal examines the development as submitted to Dublin City Council and the proposed option no. 2 scheme. The results demonstrate that the proposed development would not cause an unacceptable overshadowing impact on neighbouring properties.

6.1.4. The changes which are proposed under the Option no. 2 scheme for the site can be summarised as follows:

- Reduced internal floor to ceiling heights at ground and 1st floor level, reducing the overall building height from 7.18 m to 6.71 m.
- Reduced overall floor area from 268 m² to 238 m².
- Finished ground floor level has been raised from 2.5 m to 2.72 m above the 1% AEP event flood depths map.
- The area of the basement has been reduced, with additional set-backs at 1st floor level from the rear, front and side (west) boundaries to protect amenities of adjoining residential properties.
- No windows are proposed facing onto the private amenity space at No. 8 Lansdowne Terrace.
- Increased private amenity space from 44 m² to 52 m², including increased 1st floor south-facing terrace to the front.

6.2. Planning Authority Response

6.2.1. A response to the appeal was received from the Planning Authority on 31st March 2022. The Planning Authority requests that a Section 48 Development Contribution condition be attached should planning permission be granted for the proposed development.

6.3. Observations

6.3.1. A total of 4 no. observations have been made on the appeal by: (1) Alfred Guinevan, 8 Lansdowne Terrace, Shelbourne Road, Ballsbridge, Dublin 4, (2) Siobhan Collins, 8 Lansdowne Terrace, Shelbourne Road, Ballsbridge, Dublin 4, (3) Grace McRandal, Lansdowne and District Resident's Association (LDRA), 26 Shelbourne Road, Ballsbridge, Dublin 4, (4) RW Nowlan & Associates on behalf of Paul Philip, 1 Berkely Mews, Lansdowne Lane, Ballsbridge, Dublin 4.

6.3.2. The issues which are raised can be summarised as follows: (1) overbearing and overlooking impacts, (2) sub-standard private amenity space for main dwelling, (3)

inappropriate subdivision of the site, (4) noise impacts from balcony, (5) loss of on-street car parking spaces, (6) poor quality design, (7) negative impact on streetscape, (8) poor quality and quantum of private open space, (9) sunlight analysis does not consider the existing undeveloped scenario and does not accurately model the building shape on the southern boundary, (10) impact of basement construction, (11) flooding, (12) overdevelopment of the site, (13) development not compatible with Z2 zoning, (14) negative impact on residential amenity, (15) excessive scale and bulk of development, (16) loss of original granite wall, (17) Option 2 design does not address impacts of development on adjoining properties, (18) impact on character of the area, (19) inability to maintain gable elevation of No. 1 Berkely Mews.

7.0 **Assessment**

7.1. In addition to addressing the Planning Authority's refusal reasons for the proposed development, the appeal submission also includes a revised design proposal for the site for the consideration of the Board. In my opinion, the changes which are proposed to the development are material and would be more appropriately addressed by way of a revised planning application. Notwithstanding the foregoing, the amended scheme has been considered as part of my assessment for the benefit of the Board.

7.2. I am satisfied that the main issues arising for consideration in this case include:

- Impact on Adjoining Properties
- Private Open Space Provision
- Appropriate Assessment

7.3. Each of these issues is addressed in turn below.

7.4. **Impact on Adjoining Properties**

7.4.1. Refusal reason no. 1 of the Planning Authority's decision was based on the scale, height and proximity of the proposed development to the common boundary with No. 10/10a Lansdowne Terrace, on foot of which, it was considered that the proposed development would appear visually overbearing on the rear garden and seriously

injure the residential amenity of that property. As such, it was considered that the development would be contrary to the Z2 zoning objective for the site.

- 7.4.2. In assessing the proposed development, Dublin City Council's Planning Officer noted that the western gable of the proposed development is less than 8 m from the return of No. 10/10a Lansdowne Terrace, which contains windows serving studio dwellings. In addition to overshadowing impacts on the adjoining rear garden, it was considered likely that the ground floor studio units in this property would experience a significant reduction in internal daylight and sunlight levels on foot of the proposed development. It was noted that the applicant had not submitted any technical studies in this regard. The Planning Officer also considered that the proposed blank gable wall, directly abutting the common boundary with No. 10 / 10a Lansdowne Terrace, would be visually overbearing on this property and seriously injure its residential amenity.
- 7.4.3. In assessing the impact of the proposed development on the remaining adjoining properties, the Planning Officer considered that the blank gable wall positioned against the common boundary with No. 8 Lansdowne Terrace to the north, would diminish the amenity value of this property's rear garden. It was considered that this matter could be addressed by condition by setting back the 1st floor of the proposed development to align with the Berkeley Mews terrace to the east. It was also considered that the proposed clear glazing in the rear 1st floor windows would result in overlooking of the rear garden of No. 8 Lansdowne Terrace and the rear 1st floor window of No. 10/10a Lansdowne Terrace. The Planning Officer considered that these matters could also be addressed by condition.
- 7.4.4. In addressing refusal reason no.1, the applicant's agent submits that the height of the proposed development is below the ridge height of the neighbouring properties and has been designed to avoid any overbearing impacts. It is also submitted that the proposed development addresses the 2 no. recent refusals of planning permission on the subject site (Planning Authority Reg. Refs. 2334/20 and 2338/21) through its reduced height, bulk and scale and the increased separation distance to No. 10/10a Lansdowne Terrace. Planning precedents in support of the proposed development have been identified.

- 7.4.5. While the precedents which have been identified by the appellant are acknowledged, I note that each application must be adjudicated on its merits. In considering the scale of the proposed development and its relationship to No. 10/10a Lansdowne Terrace, I note that a separation distance of approx. 1.5 m arises between the western / gable elevation of the proposed dwelling and the single-storey return of the existing dwelling, increasing to approx. 7.8 m to the rear 2-storey façade. The overall height of the gable elevation of the proposed dwelling along the shared boundary is 7.18 m.
- 7.4.6. In reviewing the local planning policy context which applies in this instance, I consider that the policy concerning both mews dwellings and backland development applies. Backland development is defined in the plan as the development of land that lies to the rear of an existing property or building line. I note that backland dwellings shall not be located less than 15 m from the rear façade of the existing dwelling.
- 7.4.7. While I acknowledge that national planning policy seeks to promote more compact forms of development in the interests of maximising the efficiency of zoned urban land, I consider that the separation distances which are proposed between the proposed development and No. 10/10a Lansdowne Terrace are inadequate. While the subject site may no longer fall within the same ownership, its relationship to the original dwelling remains an important consideration in planning and land use terms. I also note that 3 no. mews dwellings have already been developed in the original rear garden of this property, and in my opinion, the subject site is not sufficiently large to accommodate what would comprise the 4th mews style dwelling at this location. I consider that the proposed development would represent an inappropriate form of development at this location, which would represent the overdevelopment of the site and would have significant overbearing impacts on No. 10/10a Lansdowne Terrace and its rear garden, by reason of its scale and the separation distances arising. I consider that planning permission should be refused on this basis.
- 7.4.8. In considering the impact of the proposed development on the adjoining property to the east at No. 1 Berkely Mews, I note that the rear 1st floor level of the proposed development extends along the full depth of the shared boundary. In my opinion, this arrangement would have an overbearing impact on the rear courtyard of this dwelling. While the Planning Officer considered that this matter could be addressed by setting back the rear building line to reflect that of the Berkely Mews terrace, I

consider that a reasonable compromise would include the setting back of the entire 1st floor rear façade by 2 m, thus removing the projecting element of the rear façade adjacent to No. 1 Berkeley Mews. This matter could be addressed by planning condition should the Board decide to grant planning permission for the proposed development.

- 7.4.9. In considering the impact of the proposed development on the adjoining property to the north at No. 8 Lansdowne Terrace, I consider that the setting back of the rear 1st floor building line as discussed above, and the inclusion of opaque and / or high-level glazing to the windows at this level, would address overlooking and overbearing concerns with respect to this property. This matter could also be addressed by planning condition should the Board decide to grant planning permission for the proposed development.

7.5. Private Open Space Provision

- 7.5.1. Refusal reason no. 2 of the Planning Authority's decision was based on the failure of the proposed development to provide an adequate quantity and quality of usable private open space for future occupants. As such, the proposed development was considered contrary to the private open space standards of the Dublin City Development Plan 2016-2022 and Policy QH21 to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity.
- 7.5.2. In reaching this conclusion, Dublin City Council's Planning Officer considered that the proposed patio (9.5 m²) to the rear of the dwelling has limited amenity value given its size, configuration and north-facing aspect. It was also noted that the ground floor patio to the front (17 m²) would provide for bin and bicycle storage and a small area of planting. The Planning Officer considered that the only meaningful area of private open space comprises the south-facing, 1st floor terrace. Collectively, it was considered that these spaces would not provide an acceptable level of amenity for the size of development proposed.
- 7.5.3. In response to the foregoing, the applicant's agent submits that the proposed private amenity space is of an appropriate scale and quality to provide a high level of residential amenity for future occupants. It is acknowledged that the level of provision (44 m²) falls below the required development plan standards, but it is considered that

the infill nature of the site and the quality of the space should be acknowledged. It is also submitted that the subject site is close to the border of the inner city, where a reduced standard of private open space of 5-8 m² per bedspace applies. It is noted that there are many parks and communal spaces close to the site. The applicant's agent has also presented an argument that the subject site is located in the "South-East Inner City – Local Electoral Area" and that a reduced open space can be considered on that basis.

- 7.5.4. In considering the issue at hand, I note with reference to Chapter 4, Section 4.5.1 of the development plan (Shape and Structure of the City) that the "inner city" is defined as "the city centre and its immediately surrounding neighbourhoods within the canals". While the applicant's agent submits that the subject site is on the border of the inner city, I note that it is located a minimum distance of 635 m from the Grand Canal at its junction with Clanwilliam Place. Based on the foregoing, I do not consider that the subject site can reasonably be described as bordering the inner city. As such, the minimum private open space requirement arising in this instance is 60 m² based on an occupancy of 6 no. persons (3 no. double bedrooms).
- 7.5.5. I share the Planning Authority's concerns regarding the quality and quantity of the proposed open space to serve the dwelling. The proposed ground floor patio to the rear of the dwelling has a length of 5.5 m and a depth of less than 1 m (excluding the proposed planted strip along the site boundary). This space is only accessible via the master bedroom and bedroom no. 2. I note that the door leading from the master bedroom opens into the patio, which would serve to further reduce the usability of this space. In my opinion, the rear patio would offer almost no meaningful amenity value to future occupants of the dwelling.
- 7.5.6. The patio to the front at ground floor level has a stated floor area of 17 m². However, I do not consider that the entrance pathway, including the inward opening door, can reasonably be included within the footprint of this open space. As such, I calculate that this space has an area of approx. 13 m², including the tree planting / soft landscaped area adjacent to the boundary with the public road.
- 7.5.7. As identified by Dublin City Council's Planning Officer, the primary area of amenity space comprises the 1st floor terrace to the front of dwelling, which is accessed via the living accommodation and the proposed snug room / office. I calculate that the

combined area of private open space which is proposed at the ground and 1st floor levels to the front of the dwelling is 30 m², which is significantly below minimum development plan requirements.

- 7.5.8. While the development plan confirms that private open space standards may be relaxed on a case-by-case basis based on a qualitative analysis of the development, I do not consider that any such relaxation would be appropriate in this instance, given the extent of the shortfall arising and the scale of the proposed dwelling. As such, I agree with the Planning Authority that planning permission should be refused on this basis.

7.6. Option 2 Scheme

- 7.6.1. The set-backs which are proposed to the northern and western elevations of the proposed development at 1st floor level are acknowledged. However, in my opinion, the proposed set-back along the shared (western) boundary with No. 10/10a Lansdowne Terrace is not sufficient to address the overbearing impact of the development on the existing property. I note that the proposed set-back along the northern site boundary reflects my recommendations to reduce the impact of the development on No. 1 Berkely Mews.
- 7.6.2. The amendments which have been made to increase the amount of private open space are also acknowledged. I estimate that the area of the ground floor patio to the front of the property remains at 13 m². My concerns in relation to the amenity value of the rear ground floor patio remain. I calculate the total revised usable open space in this instance is 38 m², which in my opinion, remains a significant shortfall on the required standard of 60 m².
- 7.6.3. I have reviewed the “Daylight Analysis and Overshadowing” report which accompanies the appeal. Six windows on the rear elevation of No. 10/10a Lansdowne Terrace were assessed for Vertical Sky Component, with 5 no. windows complying with the BRE guideline level and 1 no. window failing to comply. All windows meet the criteria under the Option 2 scheme. Under both development scenarios, at least half of the rear garden of No. 10/10a Lansdowne Terrace would continue to receive 2 hours of sunlight on 21st March. Overshadowing diagrams are provided for both development scenarios at 10.00, 12.00, 14.00 and 16.00 hours on 21st March, 21st June, 21st September and 21st December. No diagrams are provided

to illustrate the existing scenario, and as such, it is not possible to identify the extent of additional overshadowing which would occur on foot of the proposed development.

- 7.6.4. A Civil Engineering Report has been provided to address the Further Information request of Dublin City Council Drainage Division regarding flood risk. The report confirms that the subject site is located inside the fluvial flood risk zone for the 0.1% and 1% AEP events and is outside the zone for the 10% AEP event. Correspondence has been provided from the Flood Projects and Water Framework Directive Division of Dublin City Council which confirms that the site flood risk will be significantly reduced through the provision of the final sections of fluvial flood defences at 2 no. upstream sites on the River Dodder. The finished floor level of the proposed development has been raised to 2.7 m OD, which is above the 1% AEP event flood depths.
- 7.6.5. It is submitted that the requirement to increase the finished floor level above the predicted 1% AEP event (i.e. above 2.7 m OD) would generate a hostile street elevation, which can be avoided through flood resilient construction (including low permeability materials, non-return valves on all drainage outlets, flood gates on door openings) in tandem with the reduced flood risk provided by the River Dodder flood defence infrastructure. It is submitted that only a residual risk of flood defence failure will exist following completion of the identified flood defence works.
- 7.6.6. The report also notes that the site is subject to pluvial flooding for the 0.5% and 1% AEP events. This is addressed through the increased finished floor level of the proposed development, together with the flood resilient construction measures described above. It is proposed to provide a new foul connection to the existing combined sewer directly adjacent to the site. Protection against possible surcharging of the sewer will be provided by the installation of non-return valves.
- 7.6.7. In my opinion, the issue of flood risk has been satisfactorily addressed by the information which accompanies the appeal submission.

7.7. Conclusion

- 7.7.1. While national and local planning policy in support of increased residential densities in urban areas is acknowledged, in my opinion, the subject site cannot accommodate the scale of development proposed, while providing an acceptable level of private open space for future occupants. I consider that the development of the subject site would have unacceptable overbearing impacts on the adjoining property at No. 10/10a Lansdowne Terrace in particular, given the limited separation distances arising. I note in this regard that 3 no. mews style dwellings have already been built in the original rear garden of this property and that An Bord Pleanála has refused planning permission for residential development on this site on 2 no. recent occasions. As such, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area and I recommend that planning permission be refused in this instance.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the proposed development for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

- 9.1. The proposed development, by reason of its inadequate qualitative and quantitative provision of private open space, would conflict with the development management standards set out in Section 15.11.3 of the Dublin City Development 2022-2028, and as such, would constitute the overdevelopment of this restricted site. The proposed development would, therefore, provide substandard residential amenity for future occupants of the proposed dwelling and would be contrary to the proper planning and sustainable development of the area.
- 9.2. It is considered that the proposed development, by reason of its height, scale, massing and proximity to the shared boundary, would have an overbearing impact on the rear elevation and rear garden of No. 10 / 10 a Lansdowne Terrace and would seriously injure the residential amenities of this property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Louise Treacy
Senior Planning Inspector

20th December 2022