



Development

Demolition of a non-original single storey garage, and construction of a detached three storey, flat roof, three bed mews type dwelling.

Location

To the rear of 138 Rathgar Road (Protected Structure), Dublin 6 with access adjoining 1A Garville Road, Rathgar, Dublin 6.

Planning Authority

Dublin City Council (South)

Planning Authority Reg. Ref.

5147/22

Applicant(s)

Adrian O'Hara

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Adrian O'Hara

Observer(s)

Claudia Gentile, 136 Rathgar Road
Rathgar Residents' Association

Date of Site Inspection

25 and 28 September 2023

Inspector

Vanessa Langheld

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1.0 Site Location and Description

- 1.1. The site of 180.1 sq m is located to the rear of No. 138 Rathgar Road with access off Garville Avenue, Rathgar, Dublin 6. The site comprises two parts: a site (currently a garage) on Garville Road; and part of the rear garden of No. 138 Rathgar Road. It is effectively an L-shaped site, extending from Garville Road past the back garden of the adjoining property No. 139 Rathgar Road to the back garden of No. 138 Rathgar Road.
- 1.2. Rathgar Road is characterised by substantial mainly two-storey over-basement Victorian houses. There is a variety of Victorian house types, with varying plot widths and house types, some with wider sites.
- 1.3. The frontal property, No. 138 is a semi-detached house abutting No. 139 Rathgar Road. Both properties are Protected Structures. No. 138 has no off-street parking to the front. It appears to be in use as flats.
- 1.4. There is a substantial covered bike storage area to the front of the property, and a storage area behind the hedges for in the order of 12 No. bins.
- 1.5. The appeal site is the back garden of this Victorian House. It is largely landlocked except for a narrow strip of land (3.685 m) that links it to its garage on a wider section of land on Garville Road. (See the attached Site Location Map.)
- 1.6. The Garville Road street frontage is currently characterised by a garage door, which would appear to be of early 20th Century vintage, surmounted by an interesting roof ridge tile. It adjoins the similar garage door to the rear of No. 139 Rathgar Road. The appeal site adjoins a pair of infill semi-detached two storey houses on Garville Road, and there is further infill development opposite it, with two-storey over basement duplex apartments. That infill development is set back from Garville Road with off-street parking to the front.
- 1.7. It would appear that part of the back garden of the appeal property has been subsumed into the back garden of a newer structure, No. 1A Garville Road. This is evident from cross comparison of the Ordnance Survey Site Location Plan with the Applicants' Ground Floor Plan.
- 1.8. The adjoining houses on Garville Road have pitched roofs. Dublin City Council granted permission for development of a two-storey pitched roof house to replace the

garage beside the appeal site in the back garden of No. 139 Rathgar Road. (Reg. Ref. 3072/22)

- 1.9. Overall, the streetscape character of this section of Garville Road is varied. Further along Garville Road, the character of the road is mainly that of two-storey terraced and villa-style Victorian houses.
- 1.10. It is inferred in the Application documentation that the appeal site is in separate ownership to the frontal property, No.138 Rathgar Road.
- 1.11. This part of Rathgar is a Residential Conservation Area, characterised by a variety of mainly Victorian houses.

2.0 Proposed Development

2.1. The proposed development provides for the following:

- Demolition of a non-original single-storey garage (32.9 sq m) on Garville Road, and the demolition of a shed (20.6 sq m) to the rear of No. 138 Rathgar Road, a Protected Structure.
- Construction of a three-storey mews house (175 sq m), with access from Garville Road, extending to the rear section of the back garden of No. 138 Rathgar Road. (The narrow section along Garville Road forms the entrance to the dwelling and it extends in an irregular L-shape to the rear of the site on Rathgar Road.) The bulk of the living accommodation is located in the rear of the period house on Rathgar Road. Pedestrian access is provided from Garville Road. There is no vehicular access or parking provision proposed.

The proposed dwelling has the following characteristics:

- It extends to a gross floor area of 175.9 sq m over three floors.
- It provides for bicycle parking for three bicycles at its entrance on Garville Road.
- There is a kitchen/dining/living room, hall, plant room, utility room and bathroom at ground floor level.
- It provides a study and ensuite bedroom (Bedroom 1) at first floor level, with Bedroom 2 and ensuite and Bedroom 3 at the second floor.

- There is a private garden to the rear of the dwelling (formed by part of the back garden of No. 138 from which it is separated by an existing boundary fence (shown on the drawings and seen at the Site Visit). This is annotated as 60.7 sq m. There are also two courtyards of 12.9 sq m and 2.5 sq m, respectively, both abutting the side / rear of the garden of No. 1A Garville Road.
- The proposed dwelling is lit by roof lights, by courtyards, and by windows on the front elevation to Garville Road and on the back elevation, facing the rear of the period house on Rathgar Road.
- At its Garville Road frontage, the upper floors are set back to the building line of the adjoining house, No. 1A Garville Road. At ground floor the proposed dwelling has a courtyard with bicycle parking which extends to the street.

2.2. The proposed dwelling is set back from the boundary with No. 139. At first floor level and again at second floor level is stepped away from the boundaries with the neighbouring property No. 137 Rathgar Road.

2.3. There is an opaque bathroom window along the northern elevation i.e. facing the rear garden of No. 137 Rathgar Road. There are no other windows on this elevation. This window will be black spandrel glass.

2.4. The eastern elevation will face the back of No. 138. This elevation has fenestration across the ground floor level, while at first floor it is limited to two full-length bedroom windows. One of these has fixed vertical louvers to reduce overlooking. At third floor level, there is one bedroom window on the rear (western) elevation.

The Appeal introduces a second scheme, primarily formed by the removal of the proposed second floor. That would result in a reduction of the dwelling to 125 sq m, resulting in a two-storey dwelling with two bedrooms (the original application had three bedrooms and a study, while the revised scheme has changed the study to a bedroom).

2.5. Architectural Heritage Impact Report accompanying the Planning Application.

- 2.6. It is stated that the application site (now the appeal site) is under separate ownership to the frontal property, No. 138 Rathgar Road, and that the site does not form part of the character of 138 Rathgar Road.
- 2.7. The existing garage structure is not original and the Architect states that it has no architectural merit. The perimeter stone wall between Nos. 138 and 139 is constructed of cut limestone. It is generally intact, in good condition and it is proposed that it will be maintained and restored.
- 2.8. The Architectural Heritage Report attaching to the Planning Application states that the existing perimeter stone wall is constructed in cut limestone satiated wall, falling within the curtilage of the Protected Structure and being part of the architectural fabric of the property. That conflicts with the statement that the Application site is not part of the curtilage/attendant grounds of the frontal property, a Protected Structure. The perimeter wall to No. 137 is not original.

3.0 **Planning Authority Decision**

3.1. **Decision**

Dublin City Council issued a Decision on 13/12/22 to Refuse permission for development for the following reasons:

- ‘1. Having regard to the three storey nature of the proposal which adjoins two storey residential properties, it is considered that the proposed development would be visually out of keeping with the neighbouring properties and would seriously impact on the existing streetscape and would be contrary to the Z2 zoning of the site which is ‘to protect and / or improve the amenities of residential conservation area’ thereby setting a undesirable precedent for other unsuitable developments. The proposal is therefore considered to seriously injure the residential amenity of property in the vicinity and as such is considered contrary to the proper planning and development of the area.*
- 2. Having regard to the bulk, scale and massing it is considered that the proposed development would seriously impact on the residential amenity of adjoining properties and in particular the setting of the Protected Structure due to its*

overbearing impact and would set a undesirable precedent for other similar developments. The proposal is therefore considered to seriously injure the amenities of property in the vicinity and as such is considered contrary to the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Reports

Basis of Planning Officer's Decision

The proposal is for a three-storey dwelling measuring 176 sq m. A two-storey dwelling with a hipped roof has recently been granted on the adjoining site. Concern has been raised by third parties regarding the issue of scale; this seems reasonable given that the proposal is for a three-storey house.

The materials proposed include black spandrel glass with brick elevation. The Planner comments that the Drawings are difficult for third parties to visualise. Overall visual impact is difficult to assess. New development is required to harmonise and complement existing development, and it is considered that in this instance the proposal is overly-dominant and would be visually incongruous and set an undesirable precedent.

The Planning Authority considers that the proposal would impact on the setting of the adjoining Protected Structures due to its overbearing impact given its height, bulk, mass and scale.

In conclusion, although the principle of a new dwelling on this site is acceptable, the three-storey nature of the current application, its bulk, scale and massing would negatively impact the neighbouring properties and would therefore contravene the Z2 zoning.

3.2.2. Other Technical Report

Transportation Planning Division – there is existing Pay-and-Display parking on Garville Road and it is considered that this will address the loss of parking for the frontal property No. 138 Rathgar Avenue and the proposed dwelling in this instance.

The Pay-and-Display Parking should also be extended to include the area in front of the site.

Engineering Department – Drainage Division – No objection, subject to Conditions.

3.3. Prescribed Bodies

Uisce Eireann (Irish Water) – no response received.

Failte Ireland – no response received.

An Chomhairle Ealaíon (the Arts Council) – no response received.

Department of Housing, Local Government and Heritage – no response received.

The Heritage Council – no response received.

An Taisce – no response received.

3.4. Third Party Observations

There were a number of objections to the Planning Authority. The issues raised are summarised as follows:

- There was no Site Notice on No. 138 Rathgar Road.
- There is already insufficient parking on Garville Road.
- There will be overdevelopment on Garville Road, arising from this development and the neighbouring permitted development.
- A 3 storey development is overdevelopment and will give rise to overlooking of the adjoining back gardens of the Protected Structures.
- There is a question as to whether or not this site is in separate ownership to the frontal property, No. 138 Rathgar Road.
- The development will give rise to overshadowing, overlooking and loss of privacy.
- The flat roof design is not appropriate.

4.0 Planning History

4.1. Appeal / Application site

No planning history.

4.2. Neighbouring site, rear of No. 139 Rathgar Road.

2214/21 – permission refused for 203 sq m three-storey over basement mews house in rear garden and new west facing roof terrace at 2nd floor. Refusal Reasons included scale, mass, external appearance, dominance, incongruity, harmful to setting of Protected Structure and character of Conservation Area. Also, unacceptable impact on neighbouring properties due to overlooking and overbearance, issues with the basement, sunlight and failure to provide adequate residential accommodation.

3072/22 – Permission granted for two storey dwelling (107 sq m) (mews house) in accordance with Further Information Request, which required removal of the second floor attic accommodation and the reduction in roof height. The Permission was not appealed.

4.3. Neighbouring site, No. 1A Garville Road

No details are provided on the planning history of No. 1 Garville Road, which appears to have subsumed part of the rear garden of No. 138 Rathgar Road.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The site is located within the curtilage of a Protected Structure, No. 138 Rathgar Road.

5.1.2. The site is zoned Z2 'Residential Neighbourhood (Conservation Area) in the Dublin City Development Plan, 2022-2028. The objective of this zoning is *'to protect and / or improve the amenities of Residential Conservation Areas'*.

- 5.1.3. Residential is 'Permitted in Principle' in this zone so in land use zoning terms the proposed development is acceptable.
- 5.1.4. The Development Plan states *'that there are a number of key issues facing the city in terms of its built heritage and archaeology.'*
- 5.1.5. *An overarching issue is the ongoing need to balance the often competing demands of a modern city in terms of consolidation and future growth with the need to protect its intrinsic character. There is a need to ensure that Dublin City is a real and vibrant city where people live and work and not merely a tourist destination.....'*
- 5.1.6. Relevant policy

Built Heritage and Archaeology (Chapter 11 of the Development Plan)

Policy BHA2 – Protected Structures.

Policy BHA9 and 10 – Conservation Areas and Demolition in a Conservation Area.

BHA14 – Mews development.

Development Standards (Chapter 15)

15.3.3 Infill / side garden developments.

15.3.4 Backland housing.

15.3.5 Mews development.

15.13.5.1 Design and Layout.

15.13.5.2 Height, scale and massing.

15.15.3.2 Conservation Areas

5.2. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the development proposed, the site's location within an established built-up urban area, which is served by public infrastructure, the nature of the receiving environment and the existing pattern of residential development in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

1..1. The First Party Appeal is submitted by Reid Associates on behalf of the Applicant and is summarised as follows:

- The reason for refusal is not sustainable.
- The design of the three-storey structure took cognisance of the two storey pitched roof dwelling granted permission on the neighbouring site (rear of No 139 Rathgar Road).
- The resultant height of the appeal dwelling is similar to that granted permission on that site.
- It is lower than the frontal house, No. 138, and over 24 m from its main façade.
- It integrates into the street context of Garville Road.
- Concerns regarding the three-storey height and the mass and scale do not consider the slenderness of the design proportions and the nature of the courtyard design.
- This issue could have been addressed by Further Information or by Conditions during the determination of the Application by the Planning Authority.

- The Appellant provides drawings showing a reduction in the proposed dwelling to two-storeys. This results in a reduced floor area of the dwelling to 125 sq m. These drawings are included in the appeal should the Board consider the issue of height to be the main concern.

6.2. First Party Response to Refusal Reason No. 1

- 6.2.1. The Revised Plan addresses Reason No. 1 of the Planning Authority's Refusal. It reduces the height from 8m above ground level to 5.85m, and would be only 2.5m above the existing garage height.
- 6.2.2. The development is in accordance with the Development Plan objective to promote compact growth, consolidation of the city, the principle of the '15 minute city' and in particular Policy QHSN6 – Urban Consolidation.
- 6.2.3. It also accords with National Policy that future housing and employment growth be located within and close to existing built-up areas.
- 6.2.4. There is no evidence that any residential amenities are impacted in terms of daylight, sunlight and overshadowing. The appeal documentation includes Daylight and Sunlight Assessments of the revised / reduced scheme to illustrate this.

6.3. First Party Response to Refusal Reason No. 2

- 6.3.1. There is no evidence of injury to residential amenity of adjoining properties.
- 6.3.2. There is already a large shed on the site, which is located on the boundaries of the adjacent gardens.
- 6.3.3. There is no record of access to the site by a Planning Official from Dublin City Council and viewing from the street doesn't give an accurate picture of existing site conditions.
- 6.3.4. The separation distance to the main façade of the Protected Structure No. 138 is 24m. There are no overlooking windows in the rear return of No. 138, which is located some 17m from the first-floor level of the proposed dwelling.
- 6.3.5. The reduced height arrangement is lower than the return and lower than the permitted dwelling at the back garden of No. 139.

- 6.3.6. The reduced height results in a reduced floor area to 125 sq m and a consequent reduction in scale and massing.
- 6.3.7. The design is proportionate to the scale of its surroundings, and with the revised reduced height proposal, it will avoid any sense of overbearing impact.
- 6.3.8. The proposed revised plans for a two-storey dwelling address the Council's concerns.

6.4. Summary of Daylight and Sunlight Analysis –

- 6.4.1. This analysis is based on the revised two storey plans. It demonstrates that the relevant guidelines are satisfied and that there is no injury to adjoining residential amenity arising from the proposed development in terms of daylight and sunlight.
- 6.4.2. Images are attached showing the extent of existing overshadowing versus overshadowing arising from the proposed development. The analysis indicates that the proposed development introduces minimal additional overshadowing external to the site and meets the Guidelines set out in 'Site Planning for Daylight and Sunlight: A Guide to Good Practice'.
- 6.4.3. All windows will receive adequate amounts of sunlight.
- 6.4.4. All these spaces achieve more than the 50 per cent of the minimum requirement to receive at least two hours sunlight on March 21st.

6.5. Planning Authority Response

- 6.5.1. The Planning Authority has asked the Board to uphold its refusal decision.
- 6.5.2. The Planning Authority has not commented on the Applicant's proposed height reduction / removal of the second floor. The Council has recommended that should the Board decide to grant permission, a Financial Contribution be attached.

6.6. Observations

There were two Observers to the appeal as considered below:

- 6.6.1. Observations by Claudia Gentile, 136 Rathgar Road

This Observation is summarised as follows:

- The effect of this development on the mews at No. 6 Belleville Avenue (to the rear of No. 136) is not considered and the proposed development is too tall. Both the three-storey and suggested two-storey proposal will give rise to unacceptable overlooking and loss of privacy.
- This is a small locked in site, and it is not suitable for large scale infill development.
- This proposal represents over-development at a cost to neighbouring properties.
- This proposal is overly-ambitious. There is mews built in the back / side garden of No. 136 Rathgar Road with frontage onto Belleville Avenue a similar site. This is single storey, and it provides its own off-street car parking and is much more appropriate.
- The daylight and sunlight analysis did not consider the properties on Belleville Avenue.
- There will be significant overlooking of the back gardens of Nos. 136 -139 Rathgar Road and to Nos. 1 and 6 Belleville Avenue.
- This site is only suitable for a single storey development.

6.6.2. Observation by the Rathgar Residents' Association

This Observation is summarised as follows:

- There was no Site Notice to No. 138 Rathgar Road. It is considered that as there is substantial development proposed for its back garden, notices should have been placed on both Rathgar Road and Garville Road.
- A three-storey dwelling is too tall. This is evidenced by the planning history of the neighbouring site. The permitted house on that site was limited to two-storeys in height.
- The proposal will give rise to overlooking of the amenity space of No. 138 and 139 Rathgar Road.
- The proposal does not provide parking.

Overall, it is considered that the proposal will negatively affect the streetscape.

7.0 **Assessment**

Having inspected the site, examined the Application details and all the other documentation on the file, I consider that the main issues are as follows:

- Issue of the Site Notice, site ownership and validity of the application.
- Principle of the development / policy of the Dublin City Development Plan, 2022-2028.
- Suitability of the three-storey design and of the revised two storey design (submitted as part of the First Party appeal documentation).
- Impact on the adjoining properties, and the Conservation Area generally.

Each of these issues is considered in turn below.

7.1. **The issue of the Site Notice, Site Ownership and validity of the Application**

The application / appeal site comprises two sections of land, namely:

- a small section (currently a garage) on Garville Road; and
- a larger section (currently the back garden) of a house (No. 138) on Rathgar Road.

7.2. **The Site Notice**

7.2.1. No. 138 Rathgar Road is a Protected Structure and as such that protection extends to its curtilage/attendant grounds. It is noted that all Observers have raised the issue of there being no Site Notice erected to the front of No. 138 Rathgar Road.

7.2.2. (In this regard, I note that Dublin City Council validated the Application notwithstanding the Observers' questioning of the absence of Site Notices on the frontal property.)

7.2.3. This issue is complicated by the fact that the Application documentation infers that the site is not in the same ownership as the frontal property No. 138 Rathgar Road.

- 7.2.4. However, the separation of the site into two sites should not, in my opinion, take away from the need to assess everything within the curtilage of the Protected Structure. At the very least this would inform possible affected third parties of the intention to separate the back garden into two separate gardens and to develop one section of that garden significantly.
- 7.2.5. (I note that the residual lands (i.e. the frontal section) is not delineated in blue to indicate lands in the Applicant's control, and the status of the Appeal site is stated as freehold on the Planning Application Form.)
- 7.2.6. In the context of the above, I suggest that should the Board shares this concern but is minded to grant permission, the Applicant be required at this stage to readvertise the proposed development and to place Site Notices on both the Garville Road and the Rathgar Road boundaries.

7.3. Site Ownership

- 7.3.1. The Applicant has stated that the back garden of No. 138 Rathgar Road is subdivided and that he is the freehold owner of part of the garden (which now forms the application / appeal site).
- 7.3.2. The Existing Ground Floor Plan (Drawing No. SV/002/A) shows a timber fence separating the site from the garden of the Protected Structure. I note, however, from photographs on the file and from the site visit that the separation of the garden into two distinct sites would appear to be relatively recent, and that the fence is relatively new?

7.4. Validity of the Application

- 7.4.1. Based on the above, I take the view that that this back garden site is included under the Protected Structure No. 7105 (138 Rathgar Road, Dublin 6 – House) as its development affects the setting of this Protected Structure.
- 7.4.2. It is noted that the Protected Structure No. 138 Rathgar Road appears from the site visit to be in use by multiple occupants. Eircode lists ten individual Eircodes for ten flats (Flats 1-10).

- 7.4.3. I consider that the proposed decoupling of the back garden of a Protected Structure, to provide a separate site, which is more or less landlocked, may in this case render it undevelopable. This is compounded by the possible use of the frontal property for multiple units, which may render the entire property already over-developed.
- 7.4.4. The Application documentation omits detail regarding the frontal property in terms of site layout, floor plans, and long sections.
- 7.5. **The Principle of the Development of this backland / mews site, Policy of the Dublin City Development Plan, 2022-2028.**

Zoning

- 7.5.1. Under the Development Plan, the site is shown as being within the Z2 Residential Neighbourhood (Conservation Area), the frontal building of No. 138 Rathgar Road is a Protected Structure. The development of this site must therefore be extra sensitive to its surroundings as it has a double protection of being within the curtilage of a Protected Structure and within a Conservation Area.
- 7.5.2. The Z2 zone is an area that has *‘extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale’* and it requires *‘special care in dealing with development proposals which effect structures in such areas, both protected and non protected’*.
- 7.5.3. The Development Plan goes on to state that *‘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’*.
- 7.5.4. On the above basis, a dwelling on the site is acceptable in principle, however, its design must take into account the special qualities of its location and ensure that there is no injury to existing residential amenity of the adjoining properties, in particular the Protected Structures and their associated open spaces.
- 7.6. **Backland housing and Mews development policy**
- 7.6.1. I note Development Plan policy for ‘Backland Housing, paragraphs 15.13.4 states:

‘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.

.....

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.

.....

A proposed backland dwelling shall be located not less than 15 meters from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.'

The Development Plan states as follows regarding Mews development:

'15.13.5 Mews

.....

Mews developments are typically accessed via existing laneways or roadways serving the rear of residential development.'

Of relevance also, the Development Plan states as follows regarding private open space provision for houses.

'15.11.3 Private open space for houses is usually provided by way of private gardens to the rear of a house. A minimum standard of 10 sq m per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally up to 60-70 sq m is considered acceptable for houses in the city.'

7.6.2. In the above context, the demolition of the garage on Garville Road and its replacement with a mews type dwelling is considered acceptable in principle, subject to the specifics of the design and its ability to enhance the streetscape along this section of Garville Road.

7.6.3. The extension of the proposed mews dwelling into the almost landlocked section of the back garden of No. 138 Rathgar Road is more problematic. The design of this section of the dwelling needs to be exceptional, in order to take account of the

sensitively of its location relative to the Protected Structure status of all the surrounding properties and the Conservation Area generally. I note that the residual garden serving the No. 138 Rathgar Road (possibly 10 flats) totals 106 sq m (equivalent to just over 10 sq m per flat).

7.7. Suitability of the 3-storey design, and of the revised 2-storey design (submitted as part of the First Party appeal documentation).

- 7.7.1. The suitability of the 3-storey design as submitted to the Planning Authority and the subject of the refusal decision by Dublin City Council
- 7.7.2. This section of Garville Road where the appeal site is has no notable architectural merit and there are a mixture of house types, including semi-detached houses and duplex apartments, all of which are infill developments. There are currently two garages side by side, one of which forms part of the appeal site, the other adjoining the appeal site, which has permission for a two-storey mews house. The permitted dwelling will extend eastwards into the back garden of the frontal Protected Structure, No. 139 Rathgar Road.
- 7.7.3. The Garville Road section of the proposed dwelling is three storeys. It is contemporary in its design, with a courtyard to the front for bicycle storage and a stepped back first and second floor. The ground floor courtyard addresses its street frontage with a Japanese styled screen to enclose the courtyard, while the first and second floor are cantilevered over it in a stepped form with windows and a vertical louvered screen to the streetscape.
- 7.7.4. The proposed parapet height is 8m, which is in line with the ridge height of the permitted dwelling on the adjoining site. It is below the existing ridge height of the neighbouring semi-detached house, No. 1A Garville Road.
- 7.7.5. In my opinion, the design at the Garville Road frontage adequately addresses the adjoining existing and permitted dwellings and would enhance the streetscape at this location. This is strengthened by the fact that the adjoining garage is to be removed and replaced with a two-storey building with a pitched roof of a similar overall height.
- 7.7.6. The flat roof of the proposed development will be higher than the eaves of the adjoining permitted house, however, the site can in my opinion accommodate this extra height. The design provides an appropriate transition from the adjoining semi-

detached house, No. 1A Garville Road and the pitched roof on the permitted house on its other side. The appeal site is narrower (at 3m) than the adjoining houses (existing and permitted) and the flat roof would fit in well on this streetscape, and not appear overly bulky or overbearing.

- 7.7.7. The section of the proposed dwelling in the back garden of the Protected Structure, No. 138 Rathgar Road is three storeys. Although it is stepped back at first and second floor to reduce its bulk, I still consider it more problematic.
- 7.7.8. The back garden site is 7m wide with gardens on either side. It is considered that the three-storey modern dwelling would be very visible from the back garden of No. 138 and from the back garden of the other Protected Structures along both Rathgar Road and also along Belleville Avenue which is located south of the site.
- 7.7.9. It is relatively close the back of the Protected Structure, No. 138 (17 m) and will reduce the open space for the Protected Structure to 103 sq. m. (I note again that it would appear that the Protected Structure No 138 Rathgar Road is in multiple use, but there is no information about the number of residents etc. It is therefore difficult to estimate its open space requirements. Regardless of this, the remaining garden of 103 sq m is considered very small relative to the size of the property and the adjoining gardens.

7.8. **The suitability of the 2 storey design**

- 7.8.1. (This is the Revised design as submitted as part of the First Party appeal documentation). A suggested design amendment has been made as part of the First Party appeal. This amendment removes the second floor from the design. The first-floor study is also changed to a bedroom and the windows to both bedrooms i.e. Master Bedroom and Bedroom 2 have been amended so that there are framed and 'baffled' to reduce overlooking.
- 7.8.2. As regards the concern by the Observers that the proposed dwelling will overshadow surrounding gardens, the Applicant responded by submitting a Daylight and Overshadowing Analysis, which was prepared in accordance with the Guidelines "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice", Third Edition, 2022.

- 7.8.3. The analysis shows little effect arising from the proposed two-storey dwelling in terms of overshadowing of neighbouring properties. It does, however, demonstrate that the small open space area, which will remain for the Protected Structure, No. 138 Rathgar Road, is in complete darkness at March 16:00, June 18.00 and September 16.00 arising from the loss of its original longer back garden space where a sunny part of the garden would remain until later in the evening all year around except December.
- 7.8.4. In terms of design, I am concerned that the removal of a floor of the dwelling on its Garville Road frontage reduces the suitability of the proposed dwelling. The reduced height is now at odds with the height of the adjoining existing and proposed dwellings. The proposed bedroom window (framed and 'baffled') at first floor level is considered inferior to the earlier design in terms of its appearance on the streetscape, and also for the proposed dwelling itself in terms of the reduction in daylight and sunlight to the proposed bedrooms.

7.4 Impact on the adjoining properties and the Conservation Area generally.

- 7.8.5. As stated above, the reduced height dwelling and its related reduction in scale and mass goes some way to addressing the impact on gardens to the rear of the Protected Structures on Rathgar Road. However, it reduces the quality of the design for the residents of the proposed dwelling itself, and also reduces the suitability of the design in terms of its appearance on the streetscape along Garville Road.
- 7.8.6. Given the Conservation Area zoning of the appeal site and the Protected Structure context of the proposed dwelling, this affect and its attendant impact on residential amenity is not justified.

8.0 Recommendation

- 8.1. That permission be refused.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the Dublin City Development Plan 2022-2028, which identifies the site as being in a Residential Neighbourhood (Conservation Area) and the fact that

much of the site is in the back garden of Protected Structure, which appears to be in multiple occupancy, it is considered that the proposed dwelling represents overdevelopment of the back garden of the Protected Structure, No. 138 Rathgar Road.

- 9.1.2. It would be visually obtrusive when viewed from the back gardens of the Protected Structure No. 138 Rathgar Road and the surrounding Protected Structures, and the setting of the protected structure would be adversely impacted upon in terms of the permanent loss of its original garden.
- 9.1.3. The design of the reduced height dwelling with 'baffled' bedroom windows and with a two-storey flat roof frontage to Garville Road would negatively affect the streetscape. It will be located between the existing and permitted adjoining dwellings, which have pitched roofs and are higher. It will therefore be in conflict with the Development Plan, and harm the character of the Conservation Area.
- 9.1.4. Accordingly, this proposal would fail to accord with the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Vanessa Langheld
Planning Inspector

15 October 2023