



An
Bord
Pleanála

Inspector's Report

ABP-318105-23

Development

PROTECTED STRUCTURE: Planning permission for the development of 3 no. terraced dwelling houses.

Location

164 Lansdowne Park, Dublin 4, to rear of protected structures Numbers 78 and 80 Northumberland Road, Dublin 4.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

4095/23

Applicant(s)

Tony Kilduff

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Fergus Brady

Observer(s)

None

Date of Site Inspection

5th April 2024

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject appeal site is located on the western side of Landsdowne Park Road which is a mews lane that runs parallel and to the east/ north-east of Northumberland Road. The site has a stated site area of 0.0561 hectares (561 sqm) and comprises of an existing nineteenth century Coach House and a separate twentieth century flat roofed double garage both of which are positioned along the site frontage and face north-east onto Landsdowne Park Road. The site includes a granite rubble wall along the northern site boundary. The remainder of the site is overgrown.
- 1.2. The appeal site is located to the rear and forms part of the curtilage of No's 78 & 80 Northumberland Road which are both two-storey over basement nineteenth century dwellings and are both listed as Protected Structures (Ref. 5937 & 5938). The said dwellings form part of a terrace of similar Protected Structures along the east/ north-east side of Northumberland Road.
- 1.3. There is an existing gated and barrier-controlled laneway running along the southern site boundary which serves a parking area to the rear of No. 80 Northumberland Road and to the rear/ south-west of the site. Further to the south there are 2 no. semi-detached two-storey dwellings (no's 167 & 168 Landsdowne Park) which located in the mews gardens of no. 82 Northumberland Road and have their front building line set back c. 6 metres into the site. To the immediate north of the appeal site there is an existing two storey detached dwelling (no. 162 Landsdowne Park) which is located in the rear mews garden of no. 76 Northumberland Road. The said dwelling is set back c. 8 metres into the site and its side southern gable wall faces the subject appeal site. Further to the north there is a terrace of 4 no. two storey dwellings, no's 158 to 161, Landsdowne Park, all of which share a set-back distance of c. 6 metres from the edge of the adjacent public road. The site is within 550 metres walking distance from Landsdowne Road Dart Station.

2.0 Proposed Development

2.1. The proposed development comprises of the following main elements:

- Demolition of an existing single storey garage structure (40 sqm) located to the front of the site facing onto Landsdowne Park and at the rear of no. 80 Northumberland Road;
- Restoration and alterations to existing one and half storey (stated to be 2 storey) Coach House (Protected Structure) adjacent to the existing single storey garage proposed for demolition;
- Construction of 3 no. two storey (2 bed/ 4 person) terraced dwellings to a maximum height above existing adjacent ground level of 9.6 metres and comprising:
 - House A: This dwelling incorporates the one and a half storey Coach House. A garage is proposed at street level within the Coach House with a live/ work unit at first floor level. The two-storey element is proposed further to the rear and both are proposed to be connected via a flat roofed link at ground floor level (GFA of 175.25 sqm (excluding garage of 17.2 sqm)).
 - House B: This dwelling follows the same theme as House A with a garage at street level, a live/work unit at first floor level above said garage and a flat roof link to the two-storey element to the rear (GFA of 187.38 sqm (excluding garage of 17.1 sqm));
 - House C: This dwelling shares the same design theme to Houses A & B (GFA of 187.44 sqm (excluding garage of 17.9 sqm));
- Each of the 3 no. dwellings are proposed to have a small accessible courtyard area between the front block and the two-storey element to the rear. The courtyards range between 11.5 to 12.2 sqm in area. Each of the dwellings also have a separate area of split level private open space to the rear ranging in size between 48.8 sqm and 49.3 sqm.
- The dwellings are proposed to have a finished floor level of 4.41 metres which is 1.05 metres below that of the proposed Coach House FFL of 5.46 metres

(existing FFL of Coach House is 5.41 metres). The proposed ridge height of the 3 no. dwellings is indicated to be 14.87 metres. The Coach House is shown to have an existing and proposed ridge level of 10.86 metres. The garage/ live-work units for House no's 2 and 3 are proposed to be contained within a slightly higher section with a proposed ridge height of 11.66 metres (i.e., 0.80 metres higher than the proposed ridge line of the Coach House at 10.86 metres).

- Retention and repair of granite rubble walls.

2.2. Other more minor elements of the proposed development include the following:

- A new rooflight to the south-west side of the existing coach house roof (House A);
- A rooflight in the rear roof plane of the front garage and live work units (Houses B & C);
- Rooflights in the front and rear roof planes of the 2 storey elements of Houses A, B & C;
- Solar panels in the rear roof planes of the 2 storey elements of Houses A, B & C.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Local Authority issued a Notification of Decision to Grant permission on 30th August 2023, subject to 14 no. conditions.

3.1.2. Condition no. 4 reads as follows:

4. The existing granite boundary wall along the site boundary shall be retained. Prior to commencement of development, details of all boundary treatment shall be submitted and agreed in writing with the Planning Authority.

Reason: In the interest of orderly development and the visual amenities of the area.

3.1.3. Condition no. 7 contains 8 no. sub-parts and relates to specific Architectural Conservation requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Local Authority Planner** considers that overall the mews residential development would be acceptable in principle having regard to the Z2 zoning of the site where the stated aim is *'to protect and/ or improve the amenities of residential conservation areas'*, the original use of the site and the presence of existing mews development along the subject lane. The Planner considered the proposals would not present an adverse negative impact on the scale and character of the main protected structure, or the privacy and amenity of neighbouring properties and that subject to conditions, the proposed development is acceptable in principle.

3.2.2. Other Technical Reports

- **Drainage Planning Division:** No objection subject to conditions.
- **Environmental Health Officer:** No objection subject to conditions.
- **Transportation Planning Division:** No objection subject to conditions.
- **Conservation Officer:** The following comments, stated to be from the Conservation Officer, are quoted in the Local Authority Planners Report:
 - *The proposed new mews houses and refurbishment of the existing coach house are supported in principle.*
 - *The CO recommends the reduction of the roof height of the attic storage as this is comparable to the height of the Protected Structures.*
 - *The loss of the ground floor wall onto the rear lane is regrettable. Lime rendering finish recommended to rendered walls on laneway.*
 - *1:50 drawings shall be submitted of the historic boundary walls and repairs required.*
 - *Conservation method statement for repair of the historic mews wall onto lane.*

- *Clarify the presence of timber boarding/ linings to the 1st floor mews – strong justification would be required for removal of historic linings indicated in photos. Confirm decision to retain.*
- *Roof coverings to all roofs should be natural slate.*

3.3. Prescribed Bodies

3.3.1. The planning application was referred to the following Prescribed Bodies:

- **Uisce Eireann:** No Response.
- **Irish Rail:** No Response.
- **Failte Ireland:** No Response.
- **An Chomhairle Ealaion (The Arts Council):** No Response.
- **Department of Housing, Local Government and Heritage:** No Response.
- **Aras an hOidhreachta (The Heritage Council):** No Response.
- **An Taisce:** No Response.

3.4. Third Party Observations/ Submissions

3.4.1. 1 no. Third Party Observation/ Submission was received from the following:

- Fergus Brady,

3.4.2. The issues raised in the third-party observation/ submission are covered in the Grounds of Appeal.

4.0 Planning History

On the subject Appeal Site:

- 4.1.1. **2906/15/X1:** Extension of Duration. GRANTED on 8th July 2020. (Expiry Date is indicated to be 13th November 2023).
- 4.1.2. **2906/15: PROTECTED STRUCTURE:** Permission for Demolition of single storey double garage, restoration and alterations to existing 2-storey coach house, a protected structure, construction of 2 no. 187 sqm and 1no. 175 sqm courtyard

mews houses that integrate and extend the existing coach house, all within the curtilage of the Protected Structures. Permission was GRANTED on 4th September 2015 (10 no. conditions).

4.1.3. This permission (Reg. Ref. No. 2906/15) is of relevance to the subject appeal as it is identical to the subject proposal.

4.1.4. **2720/14 (Appeal Ref. No. PL29S.243718):** Permission to Construct 6 no. houses at a protected structure. Permission was REFUSED on 22nd December 2014 for the following reason:

- 1. Having regard to the visually sensitive location of the proposed development in a Residential Conservation Area and within the curtilage of a Protected Structure, and to the pattern of development in the vicinity, it is considered that the proposed development, by reason of its height, bulk and scale to the rear of the existing coach house, would constitute a visually obtrusive and incongruous feature in the streetscape on Lansdowne Park, would be out of character with the established pattern of development in this Residential Conservation Area, would constitute overdevelopment relative to the scale of the site, and would be detrimental to the character and setting of the protected structures on Northumberland Road. The proposed development would, therefore, conflict with the objectives of the Dublin City Development Plan 2011-2017, which seek to protect the architectural quality of the area, and would be contrary to the proper planning and sustainable development of the area.*

In deciding not to accept the Inspector's recommendation to grant permission for the extended coach house, the Board did not consider that a split decision would be viable in this case. The Board concurred with the Inspector that this aspect of the proposed design would be visually successful, but noted, as is evident from the drawings, that the coach house, which provides entrances, car parking, bin storage and cycle parking to serve the residential units, would not function as a standalone element of the development. Having regard to the Inspector's recommendation to refuse permission for the substantive element of the proposed development, which recommendation the Board

accepted, it was therefore, considered that it would not be appropriate to grant permission for one part of this integrated development.

- 4.1.5. **4513/04:** Permission to erect new gates at the vehicular access on the Lansdowne Park frontage to rear of no. 80 Northumberland Road (a protected structure) in compliance with the condition of planning permission Reg. Ref. No. 4732/03. Permission was GRANTED on 10 Dec 2004.
- 4.1.6. **0438/00:** Permission for 4 houses, two-storey with attic room on Lansdowne Park. Permission was GRANTED on 23rd May 2000.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Appeal site is zoned Z2 – Residential Neighbourhoods (Conservation Areas) in the Dublin City Council Development Plan, 2022 to 2028. The relevant zoning objective for Z2 lands is: *‘to protect and/ or improve the amenities of residential conservation areas.’* Residential is a use which is Permitted in Principle on lands zoned Z2 – Residential Neighbourhoods (Conservation Areas).
- 5.1.2. The appeal site is located to the rear and forms part of the curtilage of No’s 78 & 80 Northumberland Road which are both listed as Protected Structures (Ref. 5937 & 5938).
- 5.1.3. Chapter 4 relates to the Shape and Structure of the City and includes the following relevant Policies:
- SC8: Development of the Inner Suburbs, SC10: Urban Density, SC11: Compact Growth, SC12: Housing Mix, SC13: Green Infrastructure, SC14: Building Height Strategy, SC15: Building Height Uses, SC16: Building Height Locations, SC17 Building Height, SC18 Landmark/ Tall Buildings, SC19: High Quality Architecture, SC20: Urban Design & SC21: Architectural Design
- 5.1.4. Chapter 5 relates to Quality Housing and Sustainable Neighbourhoods and includes the following relevant Policies and Objectives:
- Policies:

- QHSN2: National Guidelines, QHSN4: Key Regeneration Areas, QHSN6: Urban Consolidation, QHSN9: Active Land Management, QHSN10: Urban Density, QHSN11: 15-Minute City, QHSN14: High Quality Living Environment, QHSN16: Accessible Built Environment, QHSN17: Sustainable Neighbourhoods, QHSN22: Adaptable and Flexible Housing, QHSN36: High Quality Apartment Development, QHSN37: Houses and Apartments,

Objectives:

- QHSNO11: Universal Design

5.1.5. Chapter 11 relates to Built Heritage and Archaeology and includes the following relevant Sections, Policies and Objectives

- Section 11.5 relates to Built Heritage and Archaeological Policies and Objectives:

Policies:

- BHA1: Record of Protected Structures,
- BHA2: Development of Protected Structures:

That development will conserve and enhance protected structures and their curtilage and will:

(a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.

(b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.

(c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.

(d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.

(e) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure.

(f) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.

(g) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.

(h) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.

(i) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.

(j) Have regard to ecological considerations for example, protection of species such as bats.

- BHA3: Loss of Protected Structures, BHA4: Ministerial Recommendations, BHA5: Demolition of Regionally Rated Building on NIAH, BHA6: Buildings on Historic Maps, BHA7: Architectural Conservation Areas, BHA8: Demolition in an Architectural Conservation Area, BHA9: Conservation Areas, BHA10: Demolition in a Conservation Area,
- BHA14: Mews:
 - *To promote the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core, for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible, and that removes inappropriate backland car parking areas.*
- BHA26: Architectural Heritage.

5.1.6. Chapter 14 of the Plan relates to Land Use Zoning. Section 14.7.2 relates to Residential Neighbourhoods (Conservation Areas) – Zone Z2 where the general objective for conservation areas is stated to be *‘to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.’* Section 14.7.8 relates to Georgian Conservation Areas – Zone Z8.

5.1.7. Chapter 15 relates to Development Standards and includes the following relevant Sections:

- 15.4: Key Design Principles, 15.5: Site Characteristics and Design Parameters (15.5.2: Infill Development, 15.5.3: 15.5.3 Alterations, Extensions and Retrofitting of Existing Non – Domestic Buildings, 15.5.4 Height, 15.5.6: Density, 15.5.6: Plot Ratio and Site Coverage, 15.5.7: Materials and Finishes), 15.6: Green Infrastructure and Landscaping, 15.7: Climate Action, 15.8: Residential Development, 15.9: Apartment Standards, 15.11: House Developments, 15.13: Other Residential Typologies (15.13.4: Backland Housing) & (15.13.5: Mews), 15.15.2 Built Heritage (15.15.2.1 Architectural Conservation Areas, 15.15.2.2 Conservation Areas, 15.15.2.3 Protected Structures, 15.15.2.4 Retention and Re-use of Older Buildings of Significance which are not Protected, 15.15.2.5 Historic Buildings and Access, 15.15.2.6 Barrier Free Access and Protected Structures, 15.15.2.7 Fire Safety Works and Protected Structures, 15.15.2.8 Lighting of Protected Structures and Buildings in Conservation Areas).

5.1.8. The following Appendices are of relevance:

- Appendix 1 - Housing Strategy (Annex 1 - Housing Needs Assessment (HNDA), Annex 2 - Dublin City Housing Supply Target Methodology & Annex 3 - Dublin City Sub-City HNDA), Appendix 3 - Achieving Sustainable Compact Growth Policy for Density and Building Height in the City, Appendix 4 - Development Plan Mandatory Requirements, Appendix 5: Transport and Mobility: Technical Requirements, Appendix 6 - Conservation, Appendix 7 - Guidelines for Waste Storage Facilities, Appendix 10 - Infrastructure Capacity Assessment, Appendix 12 - Technical Summary of Dublin City Council Sustainable Drainage Design & Evaluation Guide (2021), Appendix 13 -

Surface Water Management Guidance, Appendix 14 - Statement
Demonstrating Compliance with Section 28 Guidelines, Appendix 16 -
Sunlight and Daylight, Appendix 18 - Ancillary Residential Accommodation.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within or adjacent to a Natura 2000 site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area and outside of any protected site or heritage designation, the nature of the receiving environment, the existing pattern of development in the vicinity, and the separation distance from the nearest sensitive location, 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

- 6.1.1. 1 no. Appeal was received from the following neighbouring resident in respect of the decision of Dublin City Council to Grant Planning permission:

- Fergus Brady

- 6.1.2. The following is a summary of the main Grounds of Appeal:

Overbearance and Overshadowing

- Such is the scale, massing, building width and depth of the proposed development, the negative impact to the rear of no. 162 Landsdowne Park, in terms of loss of sunlight remains. Please see the 'Proposed North Elevation' document.

- This overbearance is exacerbated by the proposed width of the development, which includes the proposal to demolish / remove the original granite boundary wall with no. 162 Landsdowne Park.

Granite Boundary Wall

- The Appellant is grateful for the conditions attached to the notification of decision to Grant permission issued by the Local Authority. The Appellant hopes the proposed development is amended with 'House A', at most, to be built up against the south face of the existing granite boundary wall, thereby retaining the original boundary wall.
- The Appellant suggests that clarity would remove any ambiguity as to the retention and conversion of the existing granite boundary wall. The original wall lying within the curtilage of protected structures (RPS no. 5936 & 5937).

First Floor Flat Roof External

- The Applicant again states that he is grateful for the conditions attached to the Notification of Decision to Grant permission issued by the Local Authority.
- A concern remains in relation to overbearance of the proposed width of the development.
- The coach house window overlooks the front of no. 162 Landsdowne Park. The Appellant considers this can be addressed by means of opaque glazed windows which ensure privacy and prevent overlooking.

6.2. Applicant Response

- None

6.3. Planning Authority Response

- The Planning Authority request the Board to uphold their decision. The Planning Department request that if permission is granted that the following condition(s) be applied:
 - A condition requiring payment of a Section 48 development contribution.
 - A condition requiring the payment of a bond.

- A condition requiring the payment of a contribution in lieu of the open space requirement not being met (if applicable).
- A Social Housing Condition.
- A naming & numbering condition.

6.4. **Observations**

- None

6.5. **Further Responses**

- None

7.0 **Assessment**

7.1. Introduction

7.2. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeals, and having inspected the site, and having regard to relevant local/ regional/ national policies and guidance, in my opinion, the substantive issues in this appeal are as follows:

- Zoning
- Design (Scale, Mass, Width, Depth)
- Height (New Issue)
- Impacts on Surrounding Property
- Built Heritage (Existing Granite Wall)
- Other issues
 - Appropriate Assessment

7.3. Zoning

7.3.1. The Appeal site is zoned Z2 – Residential Neighbourhoods (Conservation Areas), the zoning objective for which is *'to protect and/or improve the amenities of residential conservation areas'*. Residential use is permitted in principle on lands

zoned Z2, subject to assessment against normal planning considerations. These matters are discussed in turn below.

7.4. Design (Scale, Mass, Width & Depth)

7.4.1. The Board will note a previous appeal, as planning reg. ref. no. 2720/14 (Appeal Ref. No. PL29S.243718) refers, wherein permission was Refused for 1 no. reason, as quoted above in Section 4.0 of this Report. The Board considered that the said previous proposal, by reason of the height, bulk and scale to the rear of the existing coach house, would constitute a visually obtrusive and incongruous feature in the streetscape, would be out of character with the established pattern of development in this Residential Conservation Area, would constitute overdevelopment of the site relative to its scale and would be detrimental to the character and setting of the protected structures along Northumberland Road.

7.4.2. I have compared the proposed development to the previous proposals presented under planning reg. ref. no. 2720/14 (Appeal Ref. No. PL29S.243718) and I note the following:

- Both proposals have the same ridge level (14.87 metres currently proposed) for the proposed two storey elements and share the same overall length of 18.4 metres. The proposed ridge line is positioned 0.2 metres further north-east to that of the previous refusal.
- The overall depth of the two-storey element is proposed to measure 11.8 metres compared to 13.33 metres as previously proposed, a reduction of 1.53 metres.
- Both the front and lower rear eaves level of the proposed two storey element at 11.02 metres are 0.86 metres below that of the same eaves level of the previous proposal at 11.88 metres. The higher rear eaves level of 12.46 metres is 0.9 metres below that of the previous proposal at 13.36 metres. The lower rear flat roof eaves level of 10.96 metres is the same as that of the previous proposal.
- The proposed widths of Houses A, B & C are the same to that previously proposed for Mews Houses A, B & C.

- The front elevation of the proposed two storey element is positioned a further 0.59 metres to the west behind the front building line of the Appellants dwelling when compared to that of the previous proposal.
- Although the position of the rear elevation (Bedroom 1) is the same as that previously proposed, a reduced rear eaves level of 12.46 metres is proposed compared to 13.36 metres as previously proposed, a reduction of 0.9 metres.

7.4.3. Houses A, B, & C comprise of both the front one and a half storey garage and live/work units and the two storey elements to the rear. The Houses have stated respective floor areas (excluding the respective garages, which are shown to measure 17.2 sqm, 17.1 sqm & 17.9 sqm) of 175.25 sqm, 187.38 sqm & 187.44 sqm (stated total combined floor area of 549.13 sqm). The combined floor areas for the previously proposed Mews and Coach Houses A, B & C (as per planning reg. ref. no. 2720/14 Appeal Ref. No. PL29S.243718) are stated to measure 225 sqm, 242 sqm & 242 sqm respectively (stated total floor area of 709 sqm). Including the respective garage areas for each of the proposed Houses A, B & C provides an estimated overall floor areas of 192.45 sqm, 204.48 sqm and 205.34 sqm (estimated combined floor area of 602.27 sqm). This means the proposed development represents a 15.05% reduction in the overall size/ floor area from 709 sqm to 602.27 sqm. The proposed reduction in the overall size and scale of the development from that previously refused by the Board is not, in my opinion, of any great significance.

7.4.4. Plot Ratio is defined in Appendix 3 of the Plan as the gross floor area of the building (s) divided by the site area. Using the stated Gross Floor Area of the building (549.13 sqm) and the stated site area (561 sqm) the Plot Ratio is calculated to be 0.98 which is significantly below the recommended Plot Ratio of 1.5 – 2.0 for Conservation Areas. However, when an overall floor area of 602.27 sqm is considered (i.e. including the respective 3 no. garages) the Plot Ratio increases to 1.07. Having regard to the setting of the site and the character of the area, together with the previously stated site constraints, it is considered that a reduced plot ratio may be appropriate in this instance.

7.4.5. Site Coverage is defined in Appendix 3 of the Plan as the percentage of the site covered by building structures excluding public roads and footpaths. Excluding the areas of the proposed Ground Floor Plan devoted to Private Open Space, i.e. the

Courtyard Areas and Gardens Areas (Combined respective areas of 61.39 sqm, 60.45 sqm and 61.03 sqm) the remainder of the proposed Ground Floor Plan has an estimated Site Coverage of 67%. An indicative Site Coverage of between 45% and 50% is recommended in Table 2 of Appendix 3. The proposed development, as presented, therefore exceeds this said indicative Site Coverage.

7.5. Height (New Issue)

- 7.5.1. The overall maximum height measures 9.6 metres. The Applicant proposes to provide storage space at roof level for the proposed two-storey elements of Houses A, B & C, see Proposed Section Drawings AA & BB (Drg. No. 215, Rev. P-03) and CC & DD (Drg. No. 216, Rev. P-03). The internal floor to ceiling heights and internal size of the said storage spaces are sufficient to facilitate their future conversion to habitable space. This would result in a total of three storeys of habitable space as opposed to two storeys plus storage as proposed.
- 7.5.2. The proposed ridge level of 14.87 metres is 2.16 metres higher than the ridge level of the Appellants dwelling at 12.71 metres. This proposed ridge level of 14.87 metres is slightly above the ridge level of the rear return of the adjacent protected structure (no. 78 Northumberland Road) which is shown to measure 14.66 metres and, in turn, is below the ridge level of the original main structure which fronts onto Northumberland Road and which is shown to have a ridge level of 16.81 metres, see the proposed North and South Elevations Drawing (Drg. No. 210, Rev. P-03).
- 7.5.3. The proposed ridge level of 14.87 metres matches the established ridge level of the nearby terrace of dwellings to the north of the Appellants property at no's 158 to 161 Landsdowne Park and is 1.84 metres above the ridge level of the adjacent two storey dwellings to the south at no's 167 & 168 Landsdowne Park.
- 7.5.4. I note the issue of the overall height of the attic storage is raised as a concern by the Conservation Officer where a reduction is recommended as the said height is considered comparable to that of the Protected Structures. The said comments of the Conservation Officer are quoted in the Local Authority Planners Report.
- 7.5.5. I further note the Conservation Officers Report attached to planning reg. ref. no. 2720/14 (Appeal Ref. No. PL29S.243718). The said Report includes a recommendation to Refuse permission as the proposal would impact negatively on the adjacent Protected Structures, the rear street / lane character and historic

character of the wider residential area. It was also considered that the proposal should be refused as the proposed scale and form was not deemed appropriate for the setting and would require substantial redesign in order to address the issues particularly those associated with plan depth and height.

- 7.5.6. I further note the comments and recommendation to Grant permission as set out in the Conservation Officer's Report attached to planning reg. ref. no. 2906/15. The permitted development under planning reg. ref. no. 2906/15 is identical to the current proposals presented under this appeal.
- 7.5.7. In short, the most recent comments from the Conservation Officer, as summarised in the Local Authority Planners Report, raise concern regarding the overall height of the proposal. The Conservation Officer recommends the reduction of the roof height of the attic storage as this is comparable to the height of the Protected Structures.
- 7.5.8. In conclusion, although the design changes currently proposed serve to present a reduced scale and bulk compared to the previous proposal which was refused planning permission, as planning reg. ref. no. 2720/14 (Appeal Ref. No. PL29S.243718) refers, there is however no change to the overall height to that of the previous refusal, which still has the same proposed ridge level of 14.87 metres.
- 7.5.9. I note the guidance provided in Section 4.1 of Appendix 3 of the Plan where, with specific reference the issue of increased height in the Outer City (Suburbs), it is stated that:

'Outside of the canal ring, in the suburban areas of the city, in accordance with the guidelines, heights of 3 to 4 storeys will be promoted as the minimum. Greater heights will be considered on a case-by-case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out in Table 3.'

- 7.5.10. Having regard to the particular sensitivities of the subject site and the character of the general area, I do not consider the subject site to be a suitable location for an increased height of 3 to 4 storeys.
- 7.5.11. Having regard to the visually sensitive setting of the subject appeal site within the curtilage of 2 no. protected structures and which includes a former Coach House

which faces onto the Mews Lane, the location of the site within a Residential Conservation Area, and notwithstanding the reductions in scale and bulk presented in the current proposals compared to that of a previous proposal as planning reg. ref. no. 2720/14 (Appeal Ref. No. PL29S.243718) refers, and notwithstanding a previous Grant of permission for an identical proposal, as planning reg. ref. no. 2906/15 refers, I am satisfied that the current proposals as presented, and, in particular, by reason of the proposed height, would retain an unacceptable visual dominance on the streetscape, would be overbearing in design terms upon the character and setting of the existing coach house and that of the adjacent property to the immediate north, would not be sufficiently subservient in design terms to the adjacent protected structures and, if permitted, would serve to create an undesirable precedent for similar proposals into the future.

7.5.12. Therefore, in my opinion, permission should be refused.

7.5.13. The issue of height is a New Issue and the Board may wish to seek the views of the parties by means of a Section 137 notice.

7.6. Impacts on Surrounding Property

Overbearance

7.6.1. The Appellant considers the proposed development to be overbearing, particularly in terms of the scale, massing, building width and depth of the proposals. The Appellant refers, in particular, to the Proposed North Elevation.

7.6.2. I have reviewed the Proposed North and South Elevations Drawing, Drg. No. 210, Rev. P-03 submitted as part of the Appeal documentation and I have compared this to the Proposed North and South Elevation Drawing, Drg. 210, Rev. P-00, lodged to the Local Authority under planning reg. ref. no. 2720-14 (Appeal Ref. No. PL29S.243718) which was previously refused by the Board.

7.6.3. As noted further above, the current proposals are of reduced scale and bulk to that of the previous proposal presented to the Board. However, having regard to the excessive height of the proposed development at 9.6 metres which effectively introduces a third floor, albeit proposed for storage purposes but which is nonetheless adaptable for a future habitable accommodation, I am not satisfied that the design measures introduced to address the issues of scale and bulk serve to

sufficiently reduce the overbearing impact of the proposals upon the Appellants property. I am therefore satisfied that the proposed development, as presented, will have an undue overbearing effect upon the Appellants Property.

Overshadowing/ Loss of Sunlight to rear of No. 162 Landsdowne Park

- 7.6.4. The Appellant considers that the proposed development will result in a negative impact to the rear of no. 162 Landsdowne Park in terms of a loss of sunlight. The Appellant refers, in particular, to 'Proposed North Elevation' document/ drawing.
- 7.6.5. I have reviewed the submitted plans and application documentation. I note the north-east to south-west orientation of the subject Appeal site, it's location to the immediate south/ south-east of the Appellants property and the location and format of the existing buildings on the site and particularly the one and a half storey Coach House to the front, which is proposed to be retained, restored and altered.
- 7.6.6. I further note the position and orientation of the two storey elements of the proposed dwellings, the associated proposed maximum ridge height of 14.87 metres, which is 2.17 metres above that of the existing ridge height of the Appellants' dwelling at 12.7 metres, the established positions of the front and rear building lines of the Appellants dwelling, the position of the Appellants dwelling, the existing granite boundary wall located along the shared party boundary and the height of same, the existing single storey lean to rear extension and the existing rear shed, both positioned along the shared party boundary within the Appellants site and the estimated maximum depth of the rear garden of the Appellants property of c. 8.0 metres.
- 7.6.7. Section 15.11.12 of the Development Plan relates to Aspect, Daylight / Sunlight and Ventilation for House Developments. Further details and guidelines for Daylight and Sunlight Assessments are set out in Appendix 16 of the Plan. Section 3.0 of Appendix 16 relates to Guidance, Standards and National Policy. Section 3.6 relates to Understanding and Expectations and states that *'If, over the coming years, a revised version of BR 209 is to be issued, the guidance within this new version will take precedence.'* The latest BRE Guidance is BR 209 (2022) (3rd Edition) Site layout planning for daylight and sunlight, a guide to good practice.
- 7.6.8. Having regard to said guidance and, in particular, the guidance set out in Section 3.2 (Existing Buildings), I note the general north-east to south-west orientation of the adjacent two storey dwelling and site to the immediate north-west of the site, No. 162

Landsdowne Park. I note there are no existing windows either on the front or rear elevations which face due south and that there are no windows on the side south-east facing elevation.

- 7.6.9. At rear ground floor level there is a single storey lean to extension positioned along the southern party boundary. There is a narrow window and rear access door at this location. Owing to the narrow configuration of this rear lean-to extension and the narrow configuration of this window, it is my opinion that the said window does not serve a living room, kitchen or bedroom and as such any impact of proposed development in terms of a loss of Daylight to this said window should not be considered further.
- 7.6.10. There is, what appears to be, an existing ground floor kitchen window on the rear south-west elevation. While the Guidelines place less importance on kitchen and bedrooms in terms of the assessment of a loss of Sunlight and state that normally such a loss need not be analysed in the case of kitchens, the Board will note that said window is not facing due south and that it is positioned, c. 5 metres from the southern party boundary. It should also be noted that the position of the ridge line of the proposed development is behind and to the north-east of the rear building line of no. 162 Landsdowne Park and that the Applicant is proposing to set-back the rear first floor and roof level in House A. Having regard to the Sunlight Availability Indicator set out in Appendix A, Figure A3 (Manchester 53.5° N) which is considered most applicable to the subject site as it relates to the same latitude, I am satisfied that the proposed development, as presented, will not result in any discernible impact in terms of a loss of Sunlight on the ground floor rear kitchen window of the adjacent property to north-west, No. 162 Landsdowne Park. I similarly have no concerns in respect of a loss of Sunlight for the upper floor rear facing bedroom windows.
- 7.6.11. Therefore, in my opinion, the proposed development, as presented, will not serve to negatively impact upon the Appellant's property in terms of a loss of daylight/sunlight.
- 7.6.12. Appendix B of the Applicants' Planning Report provides a series of Shadow Studies. The studies relate to the anticipated existing and proposed shadow scenarios for 9.00 am, 12.00 pm and 4.00 pm on March 20th, June 21st, September 23rd and

December 21st. The Shadow Study is not accompanied by any written commentary by the Applicant in the accompanying Planning Report.

- 7.6.13. Having regard to recommendations set out in Section 3.3 of the Guidelines which relates to Gardens and Open Spaces, I note, as per the submitted Shadow Studies, that on the 20th March and for the hours 9.00 am, 12.00 pm and 4.00 pm, there is no discernible change to the extent of shade within the rear garden space of No. 162 Landsdowne Park, which would arise as a result of the proposed development. I am satisfied therefore that the proposed development, as presented, will not result in any additional undue overshadowing to the rear amenity space of the adjacent property to the immediate north-west, no. 162 Landsdowne Park.
- 7.6.14. Therefore, in my opinion, the proposed development, as presented, will not serve to negatively impact upon the Appellant's property in terms of any undue additional overshadowing of the existing rear amenity space.

Overlooking

- 7.6.15. The Appellants first concern in terms of overlooking relates to a proposed external flat roof at first floor level at the rear of House A and the second to an existing narrow window on the side north-west facing Coach House elevation.
- 7.6.16. In my opinion, any potential overlooking issues arising as a result of the proposed development can be suitably addressed by way of condition in the event of a Grant of permission being issued. In this regard I note condition 5 of the Notification of Decision to Grant permission which, in my opinion, serves to suitably address the Appellants concerns with regard to the issue of overlooking arising from a proposed external flat roof.
- 7.6.17. The existing window in the side north-west facing elevation of the Coach House is proposed to serve the live/ work unit which forms part of House A. This window overlooks the front parking area of the Appellants property but does not directly overlook the front windows of the said dwelling. I am satisfied that the future use of this window to serve a proposed live/ work unit will not give rise to undue overlooking of the adjacent property. It is therefore my opinion that, in the event of a grant of permission being issued, there is no requirement to install opaque glazing to this window.

7.7. Built Heritage (Existing Granite Wall)

- 7.7.1. The subject site, the associated former Coach House structure and surviving boundary walls form part of the curtilage of 2 no. Protected Structures. The Appellant seeks to ensure clarity that the existing party granite boundary wall will be suitably retained and notes the conditions introduced in this regard as part of the notification of decision to Grant permission. I note condition no. 4 specifically relates to this issue wherein the said wall is to be retained and final details as to its treatment are to be agreed prior to commencement.
- 7.7.2. I note the Proposed Ground Floor Plan (Drg. 205, Rev. P-03) includes a note which states: *'Boundary wall to be partially removed and replaced with new wall for extent of mews house – details to be agreed in consultation with the owner of 162. Granite from demolition to be re-used for new garden wall construction and or coach house refurbishment as required.'*
- 7.7.3. While I note the Appellants concern in respect of the retention of the existing granite wall, I am satisfied that in the event of a Grant of permission being issued, condition no. 4 is sufficient and serves to suitably address the issue.

7.8. Other issues

- Appropriate Assessment

Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be REFUSED for the following reason.

9.0 Reasons and Considerations

1. Having regard to the visually sensitive location of the proposed development in a Residential Conservation Area and within the curtilage of a Protected Structure, and to the pattern of development in the vicinity, it is considered that the proposed development, by reason of its height, bulk and scale to the rear of the existing coach house and excessive site coverage within a Conservation Area, would constitute a visually obtrusive and incongruous feature in the streetscape on Lansdowne Park, would be out of character with the established pattern of development in this Residential Conservation Area, would constitute overdevelopment relative to the scale of the site, and would be detrimental to the character and setting of the protected structures on Northumberland Road. The proposed development would, therefore, conflict with policy BHA2 (Development of Protected Structures) of the Dublin City Development Plan 2022 to 2028, which seeks to, inter alia, *‘to ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.’* The proposals would serve to negatively impact on the architectural quality of the area and would be contrary to 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.

Frank O'Donnell
Planning Inspector

10th May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318105-23		
Proposed Development Summary	PROTECTED STRUCTURE: Planning permission for the development of 3 no. terraced dwelling houses.		
Development Address	164 Lansdowne Park, Dublin 4, to rear of protected structures Numbers 78 and 80 Northumberland Road, Dublin 4.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class 10(b), Schedule 5 Part 2	EIA Mandatory EIAR required
No	X	N/A – Below threshold	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____