



An  
Bord  
Pleanála

## Inspector's Report ABP-320811-24

<b>Development</b>	PROTECTED STRUCTURE. Development consisting of the provision of off-street car parking with 1 EV charging point, accessed by a gated entrance from Lansdowne Road and includes alterations to and refurbishment of front wall, retention of gate posts and all associated site works.		
<b>Location</b>	18, Lansdowne Road, Ballsbridge, Dublin 4, D04 E5C3.		
<b>Planning Authority Ref.</b>	3930/24.		
<b>Applicant(s)</b>	David Wall.		
<b>Type of Application</b>	Permission	<b>PA Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party	<b>Appellant</b>	David Wall
<b>Observer(s)</b>	Philip O'Reilly.		
<b>Date of Site Inspection</b>	26.11.2024 & 03.12.2024.	<b>Inspector</b>	Des Johnson

### Context

#### 1. Site Location/ and Description.

1.1 The site is located on the north western side of Lansdowne Road, a short distance to the north east of the junction between Northumberland Road and Lansdowne Road.

1.2 No.18 Lansdowne Road is a 4 storey end of terrace Victorian townhouse. To the front that garden area is substantially gravelled, and an EV charger has been installed.

1.2 The front boundary comprises a 1.3m high red brick wall, capped with granite with railing on top. There is a metal pedestrian gate.

1.3 The front boundaries to nos.18-24 are of brick with granite capping, and metal gates. The front boundaries of the other properties along this stretch comprise metal railings and gates, and hedging.

1.3 To the front of No.18 there is on-street parking, sufficient for 3 vehicles. There is permit and pay and display (Monday-Friday 08.00-18.30) along this side of the road. On the opposite side there is a marked-out taxi rank, mostly empty at the time of inspection.

1.4 Most properties along this side of this stretch of Lansdowne Road have on-site parking except for the appeal site, and No.40, which is served by a pedestrian gate only.

## **2. Description of development.**

2.1 The proposed development is described as consisting of the provision of off-street carparking with 1 EV charging point, accessed by a new vehicular gated entrance from Lansdowne Road in the place of existing pedestrian entrance. The development will further consist of the removal of the brick pier to the west end of the front wall, the retention of the cast iron decorative gate posts and the provision of a 2.6m wide wrought iron gate leaves with recessed electronic operating mechanism; insertion of 745mm extension to the west end of the retained front wall with all details to match existing; the refurbishment of the retained brick front wall (including tuck pointing of mortar joints), rebedding of the granite capping stones, refurbishment of the retained decorative wrought iron topping and the replacement of the missing sections to match existing; all associated site works and landscaping.

2.2 The site area is stated to be 580sqm, and the floor area of buildings within the site is 330sqm. The appeal premises is a Protected Structure.

2.3 A supporting letter accompanying the application states that there would be minimal loss of historic fabric through the reworking and reuse of existing elements, high quality materials are proposed for the parking area, there would be no diminution of natural daylight in the basement south-facing front rooms, there would be no loss of any trees, and there would be no adverse effect on the character or significance of the Protected Structure. Twelve letters of support from other occupants on Lansdowne Road (one addressed Lansdowne Park) are submitted. Other documents submitted with the application include a reasoned planning case in support, prepared by SCA Planning & Development Consultants, Conservation Statement prepared by Chris Ryan Architects and Designers, and a report by NRB Consulting Engineers Ltd, including an independent parking occupancy survey.

**.2.4 SCA Planning & Development Consultants** (report summary)

A precedent decision (Ref: 2322/21) based on a Transport Planning Division report, indicates that there is capacity on the street. The layout detail has been prepared to match the layout permitted under Ref: 2322/21. Fourteen out of the sixteen houses on the road already have on-site parking. The application is prepared with the support of a Grade 1 Conservation Architect, and by a traffic and transportation assessment. The 2.6m entrance width is narrower than permitted under the statutory Development Plan. Dedicated on-street taxi parking ranks are now redundant and could be repurposed. There is minimal local demand for on-street parking licences. This is the last house on this section of Lansdowne Road where residents have to rely on on-street parking. Consultation with the Garda Events Management Unit (GEMU), based at Donnybrook Garda Station, confirmed that 24 full closure events took place in 2023 affecting Lansdowne Road, and this number will be greater in 2024 and 2025. These events require management control. In the previous refusal by the Board (ABP 314768-22), the Board was wrong by ignoring the predisposition to granting on-site car parking to facilitate where traffic management issues (events) arise. The Planning Authority should take account of its own involvement in events management relating to the Aviva Stadium and the Lansdowne Road precincts. The concern expressed about heritage impact is inconsistent with the decision relating to the BusConnects

Blackrock to Baggot Street route. The design proposed is consistent with the recommendation of the Conservation Officer in an earlier application.

## **2.5 Conservation Statement (Chris Ryan Architects & Designers)** (report summary).

In conservation terms, the primary issue is the nature of the streetscape, and how the proposal might impact on the character and significance of the building. These houses have been adapted to modern living. The proposal is not an 'inappropriate intervention', and is sympathetic to the original structure, with the effect on the Protected Structure being minimal. The proposal does not affect the special interest of the structure and there is negligible loss of significant fabric. Materials proposed are sensitive. Brick and capping stones will be reused, and new materials will respect the size, scale and materials of the original structure.

Construction methods will ensure that the work is reversible without adverse effect on the Protected Structure. There is some loss of historic fabric, but those parts of the building that contribute to the architectural and artistic significance of the house, the streetscape and the internal plan form of the primary rooms and decorative plasterwork are all retained. Areas adversely affected have been fully surveyed and inventoried, and photographically recorded in detail.

The report includes a Condition Report on the front wall and brickwork, tuck pointing, stonework, and cast & wrought iron work.

## **2.6 NRB Consulting Engineers Ltd.** (report summary)

The proposal would have a loss of 1 existing on-street public parking space. No.18 is one of the very few private houses along this stretch which does not have off-street private parking to the front. There is no other access option for the house. There are approximately 36 no. Public Parking spaces provided on the road (approx. 26 along the northern side and 10 along the southern side). The loss of 1 space amounts to only 2.7% of the total public parking spaces. An independent parking occupancy survey of the 3 spaces immediately outside No.18 was carried out over 2 weeks from Saturday 16<sup>th</sup> March (and included the day of the Ireland v Wales Rugby International at the nearby Aviva Stadium). The average usage was

1.65 per day; on average there are only 2 spaces being used. The proposed development can be accommodated with the removal of 1 existing space. This could be replaced by extending the parking bays on the opposite side of the road or using a defunct taxi rank or bus stop. The proposal is designed to accommodate an electric vehicle and a charging point is proposed within the site. The 1<sup>st</sup> party currently use a residential permit, and this would no longer be needed freeing up an on-street space. Drawing No. NRB-ATR-001 is submitted showing how a large SUV could turn within the demise, entering and exiting in forward gear. With dishd footpath there would only be the loss of 1 on-street space.

### **3. Planning History**

**Ref: 3071/21** – Permission refused for front widening of existing pedestrian access to create vehicular access for 2 off-street car spaces.

**Ref: 5248/22** – Permission refused for the provision of 2 off-street car parking spaces with 1 no. EV charging point. Accessed by a new vehicular gated entrance from Lansdowne Road. Development includes repair and refurbishment of front boundary wall details and the existing pedestrian gate entrance, and repair/replacement of tiled paving; landscaping and all associated building services and walls.

Reason – relates to loss of on-street parking, contrary to the aims and objectives of Dublin City Development Plan 2022-2028. Negative impact on the mature street tree set in front of the property.

**ABP 314768-22** – Permission refused for 2 off-street car spaces with EV chargers, accessed by new vehicular gated entrance, refurbishment of existing pedestrian gate and paving, landscaping and all associated building services and works. The proposed vehicular entrance was located adjacent to the boundary with No.20.

Reasons for refusal relate to the following:

1. Loss of on-street parking, which would reduce the supply available to residents and in the wider area, contrary to Section 4 of Appendix 5 of the Dublin City Development Plan 2022-2028.
2. Removal of the historic principal street boundary and insertion of a new vehicular entrance, together with the loss of a significant portion of soft

landscaping to the garden, would have a significant adverse impact on the curtilage and special character of the protected structure and would be contrary to Policy CHC2 of the Development Plan. The alteration of the principal street boundary including cast iron cresting, which the Board considers to be of significance, would seriously injure the setting of the Structure and the Residential Conservation Area, and would be contrary to Policy BHA7 of the Development Plan.

#### **4. Planning Policy**

**4.1 The Dublin City Development Plan 2022-2028** (DCDP) is the statutory plan for the area. It came into effect on 14<sup>th</sup> December 2022.

**4.2** The site is in an area zoned Z2 with the objective ‘to protect and/or improve the amenities of residential conservation areas’. No.18 Lansdowne Road is included in the Record of Protected Structures. RPS ref: 4280.

**4.3** Relevant provisions of the DCDP include as follows:

##### Chapter 8: Sustainable Movement & Transport

Policy CEE 12 – to support the growth of the ‘green economy’ including renewable energy, retrofitting, and electric vehicles and charging infrastructure and to support the transition towards a circular economy in line with national policy and legislation.

Objective SMT024 – to control the supply and price of public and permit parking in the city in order to achieve sustainable transportation policy objectives and encourage modal shift.

Policy SMT 25 - To manage on-street car parking to serve the needs of the city alongside the needs of residents, visitors, businesses, kerbside activity and accessible parking requirements, and to facilitate the re-organisation and loss of spaces to serve sustainable development targets such as in relation to sustainable transport provision, greening initiatives, sustainable urban drainage, access to new developments, or public realm improvements

##### Chapter 11: Built Heritage & Archaeology

- Policy BHA 2: 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)
- (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.
- (c) 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.
- (d) 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.
- (e) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.
- (f) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.
- (g) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.

- **Policy BHA 9:Conservation Areas**

To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red

line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
  2. Re-instatement of missing architectural detail or important features.
  3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.
  4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.
  5. The repair and retention of shop and pub fronts of architectural interest.
  6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.
  7. The return of buildings to residential use. Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability.
- Policy BHA 22: Upgrading Environmental Performance.  
To ensure a sustainable future for historic and other buildings subject to heritage protection, the City Council will encourage and support works to upgrade the environmental performance of the existing building stock that incorporates good standards of design and appearance. Where these works involve historic buildings subject to protection (this includes buildings referenced on the Record of Protected Structures and non-protected structures in an Architectural Conservation Area), the works shall not adversely affect the special interest of the structure and thus a sensitive approach will be required, taking into account:



- The significance of the structure, and
- The extent of intervention, including impact on historic fabric, the technical requirements of a traditionally constructed building, visibility, siting and design. The installation of renewable energy measures and equipment will be acceptable where sited and designed to minimise the visual impact and does not result in any significant loss of historic fabric or otherwise affect the significance of the structure.

#### Chapter 15: Development Standards.

##### Section 15.4.2: Architectural Design Quality.

Key principles in considering proposed development include:

- The character of both the immediately adjacent buildings, and the wider scale of development and spaces surrounding the site.
- The scale and pattern of existing streets, squares, lanes and spaces should be considered.
- The existing palette of materials and finishes, architectural detailing and landscaping including walls, gates, street furniture, paving and planting.
- The suitability of the proposed design to its intended land-use and the wider land-use character of the area, along with its relationship with and contribution to the public realm.
- The need to protect and enhance natural features of the site, including trees and any landscape setting.

#### Appendix 5: Transport & Mobility: Technical Requirements.

Section 4.3 refers to Parking in Front Gardens.

Section 4.3.7 refers to Parking in the Curtilage of Protected Structures, ACAs and Conservation Areas.

Features including boundary walls, railings and gardens make an important contribution to the character and setting of protected structures, ACAs and conservation areas. Therefore, poorly designed parking within the curtilage and front gardens of protected structures and in conservation areas can have a

negative impact on the special interest and character of these sensitive buildings and areas. For this reason, proposals for parking within the curtilage and front gardens of such buildings will not normally be acceptable where inappropriate site conditions exist, particularly in the case of smaller gardens where the scale of intervention is more significant, and can lead to the erosion of the character and amenity of the area and where the historic plinths, decorative railings and gates, historic gate piers, and historic ground surfaces are still intact.

Where site conditions exist which can accommodate car parking provision without significant loss of visual amenity and/or historic fabric, proposals for limited off-street parking will be considered where the following criteria can be met:

- A high standard of design and layout will be expected to integrate the proposal into the sensitive context, the use of natural materials that would complement the special character of the Protected Structure i.e. gravels, granite etc.;
- The retention of most of the original boundary wall and/or railings and plinth wall and the re-use of the removed railings for new access gates will be sought;
- The outlook of rooms with regard to light, including basement rooms, should not be obstructed;
- Works which would involve the loss of mature and specimen trees (those in good condition) which contribute to the character of a protected structure or conservation area, both within the private and public domain, will be discouraged;
- High quality appropriate surface treatment, which should be influenced by the surrounding context and buildings, will be sought, particularly traditional materials such as gravel or other permeable materials. Bituminous or concrete surfacing are not acceptable;
- Every reasonable effort is made to protect the integrity of the protected structure and/or conservation area;
- There is sufficient depth available in the garden to accommodate a private parked car;

- Access to and egress from the proposed parking space will not give rise to a traffic hazard;
- The remaining soft landscaped area to the front of the structures should generally be in excess of half of the total area of the front garden space, exclusive of car parking area, footpaths and hard surfacing. SuDS features should be incorporated as appropriate,
- Car parking shall be designed so that it is set-back from the house and front boundary wall to avoid excessive impact on the protected structure;
- Car parking bays shall be no greater than 5m x 3m wide;
- The proposed vehicular entrance should, where possible, be combined with the existing pedestrian entrance so as to form an entrance no greater than 2.6 m and this combined entrance should be no greater than half the total width of the garden at the road boundary. The gates shall not swing outwards so as to cause an obstruction on the public footpath;
- Where cast or wrought iron or other historic railings exist and historic brick and stone boundary walls, which contribute to the special character of the structure, every effort will be made to preserve and to maintain the maximum amount of original form and construction through minimum intervention. Any original existing gates, piers and cast iron or other railings that require alterations shall be reused and integrated with all new parking proposal. The use of automatic gates will be discouraged as the mechanisms required to operate them could have a significant impact on the legibility of the historic gates,
- Special regard shall be given to circumstances where on-street parking facilities are restricted as a consequence of the introduction of bus priority measures or other traffic management changes. In such situations, every reasonable effort will be made to facilitate proposals for off-street parking in the front gardens of protected structures and in conservation areas subject to the above criteria being met.

#### 4.4 Architectural Heritage Protection Guidelines 2011.

Chapter 13 refers to Curtilage and Attendant Grounds.

13.4.3. Proposals to remove or alter boundary features could adversely affect the character of the protected structure and the designed landscape around it.

Widening an entrance or altering flanking walls or railings will alter the scale and visual impact of the gate and gate piers. Relocating a gateway may destroy a carefully designed relationship between the entrance and the main building.

Proposals to lower or raise the height of boundary walls should also be given careful consideration as such alterations can have a detrimental effect on the character of a protected structure and on the character of an ACA.

13.4.4 While some minor changes may be granted planning permission, the cumulative effect on the character of the street or area of a series of incremental changes may not be acceptable.

13.4.6 Where the repair of historic ironwork associated with the curtilage is proposed, it should be made a condition of any planning permission that as much of the existing material as possible is retained rather than renewed.

## **5. Natural Heritage Designations**

South Dublin Bay SAC & pNHA – c. 1.4km to the East

South Dublin Bay & River Tolka Estuary SPA – c. 1.4km to the East.

## **Development, Decision and Grounds of Appeal**

### **6. PA Decision.**

6.1 The Planning Authority decided to refuse permission for two reasons, summarised as follows:

Reason 1 states that the proposal involving the removal of on-street parking to accommodate private vehicular entrances would be contrary to Development Plan policy which aims to manage on-street parking to serve the needs of the city alongside the needs of residents, visitors, businesses, kerbside activity, and accessible parking requirements. Reduced supply of on-street parking would detract from the convenience of road users and the residential amenity of surrounding properties, and set an undesirable precedent.

Reason 2 refers to the removal of original historic arrangement of the pedestrian gate, and irreversibility of the alteration of the historic wall, combined with a loss of significant element of soft landscaping. This would have an injurious impact on the character, setting and amenity of the Protected Structure contravening provisions of the Development Plan and sections of the Architectural Heritage Protection Guidelines 2011.

6.2 The Planner's Report – the site is zoned Z2 with the objective 'to protect and/or improve the amenities of residential conservation areas'. Reference is made to Development Plan Policies BHA2, BHA9, BHA18, BHA22, CHC2, and Appendix 5, Section 4.3.7. An Objection was received which refers to previous refusals, loss of on-street parking, and previous access through the rear of the site. A number of letters of support were submitted, noting significant disruption to residents as a result of traffic management restrictions during events at the Aviva Stadium. During site inspection it was noted that the EV charging point was installed, and landscaping works had already taken place. There have been previous refusals on this site and the reasons have remained broadly the same with each application. There is little difference between the current proposal and the most recent previous proposal refused permission. The position of the Transportation Division remains unchanged. The Conservation Officer is not in favour of the proposed development and recommends refusal.

6.3 The Conservation Section recommends refusal for reason relating to the removal of part of the boundary wall, and alteration/enlargement of the pedestrian gate opening, which would remove the original historic arrangement of the pedestrian gate and irreversibly alter the historic boundary wall. Together with the loss of a significant element of soft landscaping to the front site, this would have a significant adverse, irreversible and injurious impact on the character, setting and amenity of the Protected Structure, and would contravene provisions of the Development Plan and the Architectural Heritage Protection Guidelines 2011.

6.4 The Transportation Planning Division report recommends refusal for reason relating to the removal of on-street parking to accommodate private vehicular entrances would be contrary to policy set out in the Development Plan, would detract from the convenience of road users and the residential amenity of surrounding properties, and would set an undesirable precedent.

## **7. First Party Appeal.**

7.1 The grounds of appeal may be summarised as follows:

- The 1<sup>st</sup> party purchased this commercial building and is converting it to residential use. It is a Protected Structure in a Residential Conservation Area. The Planning Authority should be supportive of the development, which is consistent with the existing pattern of development on the road. Fourteen of the sixteen houses on the road have permitted on-site parking.
- The application was prepared with the support of a Grade 1 Conservation Architect.
- The appeal challenges reasons previously given in a Board Direction that the Board did not agree that parking for other uses is not in demand in the area, or that the proximity to the Aviva Stadium constitutes exceptional circumstances. The Garda Events Management Unit confirmed that Lansdowne Road is unique in terms of disruption to normal activity by an ever growing number of events in the Aviva Stadium. The Planning Authority, in making its decision, ignored information supplied to them, and treated this as a re-run of a previous application. The application contained significant new information as follows:
  - Report by NRB specialist Traffic/Transportation/Roads Consulting Engineers
  - Conservation Statement prepared by Grade 1 Conservation Architect
  - Front Wall study by Grade 1 Conservation Architect
  - Planning Report
  - Support documentation from local residents and bodies.
- The appeal is submitted as a precursor to Judicial Review, should the proposed development be refused by the Board.

- The 1<sup>st</sup> reason for refusal does not properly reflect the written provisions of the DCDP 2022-2028. The second reason is inconsistent with both DCC and ABP approval for considerable destruction of both natural and cultural heritage in the Ballsbridge area under the City Centre BusConnects Scheme and CPO.
- Lansdowne Road is the principal access route to the Aviva Stadium. It hosts rugby tests and other competitive matches, soccer internationals, exhibition matches, concerts, and other community and support facilities. During events, the road is lined with food trucks and hawkers. There is evidence that car brand sellers occupy spaces vacated by residents for advertising purposes.
- Two hotels in the area are gone and will not be replaced. Both provided lengthy, dedicated on-street taxi-parking ranks, now redundant and which could be repurposed for paid on-street car parking. The arrival of the new American Embassy, for which permission has already been granted, should be taken into account.
- There is minimal local demand for on-street residential parking licenses. Residents in the area are not largely reliant on on-street car parking spaces, because, almost universally, residents have been facilitated with on-site parking by Dublin City Council.
- Reference 4237/23 was withdrawn in its entirety after ABP made its decision on appeal Ref: 314768. In law, there was no decision.
- Appendix 4.3.7 refers to parking in the curtilage of Protected Structures, and should be taken into consideration. Regard should be given to the special circumstances applying to Lansdowne Road.
- The proposed development would result in the loss of only 1 on-street parking space. There are clear policies in the Development Plan to encourage residential living into the city centre and to positively facilitate on-site parking in particular circumstances, such as occur here.
- The DCDP should be considered in its entirety, and not just selected provisions. The proposed development does not conflict with the DCDP when read in full. The Plan notes that on-street car parking spaces will be lost, inter alia, to sustainable transport provision. EVs are sustainable

transport provision as proposed here. The proposed development could take 2 residential-licence cars off the street at the expense of 1 public paid space and would facilitate E-car use.

- On site parking and front wall refurbishment, as proposed, improves visual appreciation of these historic buildings. On-street parking can disfigure the public view of the heritage properties.

The grounds of appeal attach extracts from Chapter 8, Chapter 15, and Appendix 5 Volume 2 of the DCDP.

## **8. Responses**

8.1 There is no written response from the Planning Authority on file.

8.2 An Observation is submitted by Philip O'Reilly, Gandon Close, Harold's Cross, and may be summarised as follows:

- The proposal has been refused five times by two planning authorities in the past 3 years. Nothing has changed on the ground.
- There has been no material change on the ground.
- This section of Lansdowne Road is significantly wider. The suggested impacts of events at the Aviva are false.
- This house had previously rear access from Lansdowne Park which could have accommodated off-street parking.
- Parking for the greater community should take priority.
- There would be a loss of open amenity space and historic content in implementing this proposal.
- Traffic management circumstances on Lansdowne Road are not unique and have existed for decades.

## **Environmental Screening**

### **9. EIA Screening**

The proposed development is not of a Class contained in Schedule 5 and, as such, the need for screening or EIA does not arise.



## 2.0 **Assessment**

2.1. The proposal is for development consisting of the following elements:

- Provision of off-street carparking with 1 no. EV charging point, accessed by a new vehicular gated entrance from Lansdowne Road in the place of existing pedestrian entrance
- Removal of brick pier to the west end of the front wall, retention of cast iron decorative gate posts, and the provision of a 2.6m wide wrought iron gate leaves with recessed electronic operating mechanism
- Insertion of 745mm extension to the west end of the retained front wall with all details to match the existing
- Refurbishment of the retained brick front wall (including tuck pointing of mortar joints), re-bedding of the granite capping stones, refurbishment of the retained decorative wrought iron topping and the replacement of the missing sections to match existing
- All associated site works and landscaping.

No.18, Lansdowne Road is a Protected Structure.

2.2. At the time of inspection, the CV charger was installed in the approximate position as indicated on submitted Drawing 417 PL-01, and the front garden had been finished in a gravel surface with associated landscaping, but not to the layout as indicated on Drawing PL-01.

2.3. I submit that the key issues in the assessment are as follows:

- Policy issues
- Planning History
- Reason 1 for refusal by the Planning Authority
- Reason 2 for refusal by the Planning Authority
- Precedent
- Appropriate Assessment

### **Policy Issues**

- 2.4. The statutory Plan for the area is the Dublin City Development Plan 2022-2028 (DCDP), which came into effect on 14<sup>th</sup> December 2022. Relevant provisions of the DCDP are referred to in Section 4 of this report.
- 2.5. The Board adjudicated on a proposal for new vehicular entrance under Reference 314768-22 and refused permission. That case related to a First Party appeal against a decision to refuse permission by the Planning Authority (Reference P4494). The Planning Authority's decision was dated 13<sup>th</sup> September 2022 when the DCDP 2016-2022 was in effect, and the two reasons for refusal both referred to provisions of that Plan. The Board's decision to refuse was dated 17<sup>th</sup> November 2023 at a time when the current DCDP 2022-2028 was in effect.
- 2.6. The current appeal should be assessed and determined with due consideration of the 2022-2028 DCDP.
- 2.7. The site is in an area zoned Z2 with the objective 'to protect and/or improve the amenities of residential conservation areas', and No.18 Lansdowne Road is listed on the Record of Protected Structures. Policies in the Plan support the growth of electric vehicles and associated charging infrastructure in line with national policy. It is policy to support the return of buildings in a residential conservation area to residential use. It is an objective of the Plan to control the supply and price of public and permit parking in the city in order to achieve sustainable transportation policy objectives and encourage modal shift. In relation to parking in the curtilage of Protected Structures and Conservation Areas, the Plan allows for car parking provision where suitable site conditions exist subject to other specified planning considerations. Where inappropriate site conditions exist, the Plan states that parking within the curtilage and front gardens of Protected Structures and in Conservation Areas will not normally be accepted.
- 2.8. The 1<sup>st</sup> Party contends that the policies in the DCDP should be considered as a whole, and that there are policies within the Plan which would be supportive of the proposed development.

### **Planning History**

- 2.9. Previous refusals have issued for development on this site, and the planning history is referred to in section 3 of this report.

- 2.10. Under reference 314768-22 the Board decided to refuse permission for a new vehicular entrance located closer to the boundary with No.20 (to the north east of the current proposal), but with the retention of the separate pedestrian gate.
- 2.11. In the grounds of appeal in the current appeal, the 1<sup>st</sup> Party challenges conclusions previously given in a Board Direction relating to Reference 314768-22. The Board decided not to accept the Inspector's recommendation in that case, and the Direction states that *"in deciding not to accept the Inspector's recommendation to grant permission, the Board had regard to the recommendation of the local authority in particular did not agree that parking for other uses is not in demand in the area, or that proximity to the Aviva stadium constitutes 'exceptional circumstances'".* The Board's decision was dated 17<sup>th</sup> November 2023, and was not challenged by way of Judicial Review. The current appeal relating to Reference 320811-24 is not a mechanism for challenging the previous decision, but does purport to provide additional information challenging the reasoning given in the Board Direction, and arguing why those reasons should not dictate the Board's decision in the current case under appeal.
- 2.12. There were two reasons for refusal as set out in Section 3 of this report. The decision was made when the current DCDP 2022-2028 was in effect, and the policies and objectives contained in that Plan.
- 2.13. I submit that the planning history relating to the site is a significant consideration in the case of the current appeal. While this appeal is not the mechanism for challenging the previous Board refusal, the current appeal should consider the altered location of the proposed vehicular entrance, and all of the information submitted to the Planning Authority, some of which contests the Board's reasoning behind the decision to refuse permission under Reference 314768-22, together with the grounds of appeal and Observation.

### **Reason 1 for Refusal**

- 2.14. Reason 1 of the Planning Authority's refusal states that the proposed development would result in the removal of on-street parking contrary to Policy SMT25, section 8.5.7 and Appendix 5 Section 4.1 of the DCDP 2022-2028, and that the reduced supply would detract from the convenience of road users and the residential amenity

of surrounding properties. It would set an undesirable precedent for other similar developments on adjacent roads.

- 2.15. I submit that the proposal would result in the loss of on-street parking. The 1<sup>st</sup> party contend that the proposed development could be accommodated with the loss of 1 space, and I agree with this contention. I also accept that the provision of on-site parking could relieve demand for on-street parking by the 1<sup>st</sup> Party. At the time of inspection, mid-morning for a period of approximately 1 hour, I noted that allocated pay & display spaces along this stretch of Lansdowne Road, including on the frontage to the appeal site, were not continuously filled, although there was a clear demand for on-street parking. I also noted that the other properties along this side and stretch of Lansdowne Road, with the exception of No.40, have on-site parking, and note that the occupants of these properties are supportive of the proposed development. There is an apartment development opposite the appeal site that has a gated access on to Lansdowne Road. These observations are in line with the Consulting Engineers report submitted to the Planning Authority with the application.
- 2.16. I note from the Inspector's report relating to Reference 314768-22, similar observations were before the Board at the time of making its decision, but not including a Consulting Engineer's report, which includes an independent parking occupancy survey, and letters of support from local residents. The Board's decision in that case stated that the proposed development would be contrary to Section 4.1 of Appendix 5 of the Plan which seeks to retain on-street parking. The Planning Authority's decision in the case under appeal states that the proposed development would be contrary to Policy SMT25 and section 8.5.7 of the Plan. I note that the Board did not previously conclude that the development, then proposed, would be contrary to Policy SMT25 and section 8.5.7 of the Plan, or that it would set an undesirable precedent for similar developments on adjacent roads.
- 2.17. The 1<sup>st</sup> Party argues that there are 'exceptional circumstances' applying, and submit information stated to have been gathered following consultation with the Garda Events Management Unit regarding events at the nearby Aviva Stadium. I submit that events at the Aviva Stadium have impacts on this section of Lansdowne Road in terms of disruption and inconvenience to residents. The role of the Aviva stadium in hosting events was considered by the Board in the previous appeal, and the Board

did not agree that “proximity to the Aviva stadium constitutes ‘exceptional circumstances’”.

- 2.18. The SCA report submitted with the application contends that there is minimal demand for on-street licences, and that dedicated on-street taxi parking ranks on the opposite side of the road are now redundant and could be repurposed. It further contends that the number of events at the Aviva will increase in the future, and that all events will require management control.
- 2.19. In circumstances where the same Development Plan applies, and having regard to the planning history relating to the site, I conclude that the proposed development does not overcome the Board’s reasoning under Reference 314768-22 that there would be a loss of on-street parking which would reduce the supply available to residents and in the wider area, contrary to section 4.1 of the Plan 2022-2028, which seeks to retain on-street parking.

## **Reason 2**

- 2.20. Reason 2 of the Planning Authority’s decision refers to the removal of original historic arrangement of the pedestrian gate, and irreversibility of the alteration of the historic wall, combined with a loss of significant element of soft landscaping. This would have an injurious impact on the character, setting and amenity of the Protected Structure contravening provisions of the Development Plan and sections of the Architectural Heritage Protection Guidelines 2011.
- 2.21. Reason 2 refers to section 16.10.18 of the Architectural Heritage Protection Guidelines 2011, and this would appear to be an error as no such section appears in the Guidelines.
- 2.22. It appears that Reason 2 for refusal under Reference 314768-22 refers to Policies CHC2 and BHA7 of the Dublin City Development Plan 2016-2022, whereas the 2022-2028 Plan was in effect at the time of the making of the Board decision. The current proposal under appeal should be considered under the 2022-2028 DCDP.
- 2.23. The proposed development would entail the loss of the existing pedestrian gate, and its replacement with a vehicular gate.
- 2.24. The Conservation Statement and Condition Report submitted to the Planning Authority provide detailed information relating to the nature of the streetscape and

how the proposal might impact on the character and significance of the Protected Structure.

- 2.25. The proposed development does entail the removal of part of the boundary wall, and alteration/enlargement of the pedestrian gate opening (with the loss of the pedestrian gate). The Planning Authority considers that the proposal would remove the original historic arrangement of the pedestrian gate, and irreversibly alter the historic wall which, together with the loss of a significant element of soft landscaping to the front site, would have a significant adverse, irreversible and injurious impact on the character, setting and amenity of the Protected Structure. The Board previously concluded under Reference 314768-22, that the proposal, would result in the removal of the historic principal street boundary and insertion of new vehicular entrance together with the loss of a significant portion of soft landscaping to the garden, and would have a significant adverse impact on the curtilage and special character of the Protected Structure. The Conservation report (prepared by a Grade 1 Conservation Architect) submitted with the current proposal, concludes that the proposed development would have minimal effect on the Protected Structure, and negligible loss of significant fabric.
- 2.26. From inspection I noted that the front garden area of the Protected Structure has been gravelled, but not to the layout as shown on Drawing PL-01, and an EV charger has been installed. The other properties along this stretch of Lansdowne Road have a variety of surfaces to the front, and a variety of front boundary arrangements, including metal gates serving vehicular entrances. The front boundaries of nos.18-24 have brick walls and metal gates, and no.18 is the only one of these properties served by a pedestrian gate. The brick wall to the front of no.24 appears to have been reconstructed with newer brick. The other properties on the road have metal railings and hedging along their front boundaries. The Conservation Report submitted with the application refers to the reuse of brick and capping stones, and construction methods that would ensure that the work is reversible without adverse effect on the Protected Structure. Having regard to observations made at the time of inspection regarding the established pattern of development in the area, and to the Conservation Report and Condition Report submitted, I conclude that the proposed development, carried out under the supervision of a Grade 1 Conservation Architect,

would not have an adverse impact on the character, setting and amenity of the Protected Structure, or the surrounding Residential Conservation Area.

### **Precedent**

- 2.27. Both reasons for refusal by the Planning Authority refer to ‘an undesirable precedent for similar developments on adjacent roads’. I submit that each case should be considered on its own merits depending on individual circumstances. As such, I do not consider this is a reasonable ground for refusal.

### **Appropriate Assessment**

- 2.28. I have considered the proposal in light of the requirements of S177U of the Planning and Development Act 2000, as amended. The site is located in an established residential area, separated from designated European sites as detailed in Section 5 of this report. The proposed development consists of the provision of a new vehicular entrance. No nature conservation concerns are raised. Having regard to the nature of development, location of the site within an existing residential area, and separation from, and absence of connectivity to, any European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually, or in combination with, other plans or projects on a European site.

## **3.0 Recommendation**

- 3.1. I recommend that permission for the development be refused.

## **4.0 Reason**

1 The proposed development would result in the loss of on-street parking which would reduce the supply available to residents and in the wider area, contrary to section 4.1 of Appendix 5 of the Dublin City Development Plan 2022-2028 which seeks to retain on-street parking.

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Des Johnson

Planning Inspector

03.12.2024.

**Note:** In the event that the Board decides that permission may be granted, I recommend the insertion of Conditions requiring that all works be carried out under the supervision of a Grade1 Conservation Architect, and the safe storage of the pedestrian gate for possible future use.

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.



# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	320811-24		
<b>Proposed Development Summary</b>	New vehicular entrance to Protected Structure		
<b>Development Address</b>	18, Lansdowne Road, Ballsbridge.		
<b>1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	Yes
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>		State the Class here.	
<b>No</b>	No		
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>	N/A		
<b>No</b>			
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	N/A		
<b>5. Has Schedule 7A information been submitted?</b>			
<b>No</b>	N/A		

Yes		
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Inspector: \_\_\_\_\_ Date: \_\_\_\_\_