



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311823-21

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<b>Development</b>	Construction of dwelling to the rear and subdivision of rear garden space.
<b>Location</b>	Site to the rear of No. 94 Dublin Road, Sutton, Dublin 13, D13 HD76.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F21A/0459.
<b>Applicant(s)</b>	Patrick & Patricia Fitzgerald.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refused.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Patrick & Patricia Fitzgerald.
<b>Observer(s)</b>	Remi Thomas & Aoife Thomas Doyle.
<b>Date of Site Inspection</b>	30 <sup>th</sup> day of May, 2022.
<b>Inspector</b>	Patricia-Marie Young.

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	7
3.4. Third Party Observations .....	7
4.0 Planning History.....	7
5.0 Policy & Context .....	10
5.1. Development Plan.....	10
5.2. Natural Heritage Designations .....	11
5.3. EIA Screening .....	11
6.0 The Appeal .....	11
6.1. Grounds of Appeal .....	11
6.2. Planning Authority Response .....	13
6.3. Observations .....	13
7.0 Assessment.....	16
8.0 Recommendation.....	22
9.0 Reasons and Considerations.....	22

## 1.0 Site Location and Description

- 1.1. The rectangular in shape appeal site has a stated 0.285ha area and it is located c95m to the east of Baldoyle Road, in the north Dublin city suburb of Sutton.
- 1.2. The site comprised of the northern most end of the rear garden area of No. 94 Dublin Road that adjoins a modest as well as variable in width cul-de-sac service lane that runs along the rear boundary of No.s 86 to 105 Dublin Road as well as adjoins mainly the rear boundaries of No.s 4 to 15 Binn Eadair View.
- 1.3. The northern boundary of the site is set back from the aforementioned service road and contains a high boundary wall perforated by two solid timber openings. One accommodating vehicle access and the other accommodating pedestrian access.
- 1.4. Setback from this boundary there is a recently constructed but yet to be finished gable shaped single storey structure. The area between it and the rear boundary contains mainly construction materials and is finished with hard core. The main rear garden behind No. 94 contains hard and gravelled with soft landscaping. A hedge is situated where the proposed subdivision would commence with hedge containing an opening of sufficient width to accommodate pedestrian access. The area to the north of this hedge and the southern elevation of the uncompleted single storey structure consists mainly of hard core.
- 1.5. No. 94 is a 2-storey with attic conversion dwelling that has been subject to a number of alterations and additions. It is setback from Dublin Road by a mainly gravelled front garden area that is used for off-street car parking. To the rear it contains a dormer window at attic level and single storey later rear extensions. The site forms part of a mature residential area.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for:
  - Construction of a one bed, single storey mews dwelling, with non-habitable floor within the roof space, (112 sq.m), to the rear of existing dwelling, with two car parking spaces which will be accessed off lane to rear.

- Subdivision of garden area to provide private open space for both houses. boundary treatment, landscaping, on-site surface water attenuation, foul and surface water drainage, and all site works.

The proposed development is indicated as relating to a 0.285-hectare site to the rear of 94 Dublin Road, Sutton, with the proposed development involving the change of use of approved garage development (Note: P.A. Ref. No. F18B/0186) and minor changes to the internal and external plan and elevations together with all associated site works and services.

- 2.2. The proposed mews dwelling consists of a storey and a half-pitched roof structure (Note: 5.597m height) containing one bedroom served by 2 car parking spaces and a private open space of 112sq.m. The attic space is indicated as 'storage'. The site coverage given is 0.25 and the plot ratio is given as 0.4. It is further indicated that the 285m<sup>2</sup> site forms part of a 668m<sup>2</sup> site within the applicant's interest.

### 3.0 Planning Authority Decision

#### 3.1. Decision

On the 14<sup>th</sup> day of October, 2021, the Planning Authority decided to **refuse** planning permission for the following stated single reason:

*“The existing laneway over which the proposed development is to be accessed comprises an important local pedestrian route. The laneway is considered to be seriously deficient in width along its length and lacks sufficient capacity to safely accommodate the vehicle and pedestrian movements which the proposed development will generate combined with the existing and future pedestrian movements associated with the adjoining public house and the Binn Eadair housing estate. In the absence of any comprehensive proposals for the upgrade of this lane and the management of vehicle movements along its length, it is considered that the proposal would constitute ad hoc piecemeal development which would endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”*

## 3.2. Planning Authority Reports

3.2.1. **Planning Reports:** The Planning Officer's report, which is dated the 12<sup>th</sup> day of October, 2021, is the basis of the Planning Authority's decision. It includes the following comments:

- Pre-planning discussions in relation to the proposed development sought a comprehensive approach for development along the subject laneway on the basis of concerns with regards to its width and traffic safety.
- Under P.A. Ref. No. F20A/0683 a similar development was refused on this site. The only difference is that this previous application sought retention of the vehicular and pedestrian entrance with a 2.4m high wall and a setback of 2.2m from the lane to the rear. This has not been included in the development now sought. Of further concern, this application does not seek to overcome the reasons for the refusal of this previous similar development on site.
- The structure on the subject site was granted as a garden room (Note: P.A. Ref. No. F18B/0186).
- Access to the proposed dwelling is served off a laneway which predominantly acts as a pedestrian link between the residential area of Binn Eadair View and the R809.
- There is no precedent for infill development along this lane.
- The provision of a single storey dwelling gives rise to no particular visual or residential amenity concerns.
- Reference is had to the Transportation report.
- This report concludes with a recommendation to refuse permission.

## 3.2.2. Other Technical Reports

**Transportation:** There undated report includes the following comments:

- Concern is raised that the area provided for the two in-curtilage car parking spaces is tight. However, as this is a one-bedroom dwelling unit then the car parking provision could be reduced or alternatively if two spaces are proposed to be provided a swept analysis should be provided.

- The access lane is primarily used as a pedestrian link to Binn Eadair View. Although there are a number of garages located along the lane, traffic movements are minimal.
- The lane for the most part is generally less than 4m in width and is not considered suitable as a shared surface.
- There is scope for a number of units that front onto the R105 to subdivide their land to facilitate backland mews type development, but this requires a more holistic approach. With such an approach providing for the upgrade of the access lane so that it can cater for pedestrian and vehicular movements. This was the approach taken for Windsor Terrace in Malahide where a small number of units were permitted before the lane upgrade was required. In this example the width of the lane was 5m and only served the units facing onto the lane.
- There have been a number of recent applications for lands to the rear of the Elfin Public House. These have included the widening of the lane and the provision of a footpath along the frontage of the site. However, these lands are closer to the start of the lane and the upgrades do not extend as far as the proposed development sought under this application. Consequently, they do not address all of the issues regarding the lane access associated with this development.
- This report concludes that it is their opinion that the proposed development in the current format and as a result of the substandard nature of the lane, the high volume of pedestrian activity along the lane together with the absence of any comprehensive planned upgrade of the lane that the proposed development is premature and should be refused on the grounds of a traffic hazard.

**Water Services:** In a report dated the 5<sup>th</sup> day of October, 2021, additional information was requested. This report also includes the following comments of relevance:

- The proposed development is located in a coastal location and at risk of tidal flooding. Because the use of the structure as permitted was as a garage, which is a less vulnerable classification of development, the applicant is requested to submit revised drawings with finished floor levels set at 4.00m AOD (Malin Head) minimum.

**Landscape:** In a report dated the 21<sup>st</sup> day of September, 2021, no objections are raised subject to safeguards in the event of a grant of permission. I note that this

included the substituting the 2.4m high blockwork wall along the lane with a 1.2m high brick/stone clad and capped blockwork wall or railing with hedge planting inside in the interest of visual amenity. It also sought that a Section 48 contribution be imposed in lieu of public open space. Stating that such a contribution would be applied towards the continued upgrade and development of Class 1 open space facilities in the Baldoyle Sutton area, namely Baldoyle Racecourse Park.

### 3.3. Prescribed Bodies

3.3.1. **Irish Water:** Additional information requested.

### 3.4. Third Party Observations

3.4.1. During the course of the Planning Authority's determination of this application the observers to this appeal case submitted a Third-Party Observation to the Planning Authority. I consider that the substantive planning issues raised in this submission correlate with those raised by them in their submission to the Board which is summarised under Section 6.3 of this report below.

## 4.0 Planning History

### 4.1. Site

**P.A. Ref. No. F20A/0683:** On the 16<sup>th</sup> day of February, 2021, planning permission was **refused** for a development consisting of the construction of a one bedroom single storey dwelling with non-habitable floor space in the attic (total 112sq.m.) to the rear of existing dwelling, with two car parking spaces which will be accessed off the lane to the rear; boundary treatments, landscaping together with all associated site works and services for reasons relating to the substandard nature of the laneway and traffic safety.

*Note: ABP-309700-21 referred to by the Observer in their appeal relates to a First Party Appeal of this decision but was determined to be an invalid appeal case.*

- **P.A. Ref. No. F18B/0186:** On the 31<sup>st</sup> day of August, 2018, planning permission was **granted** for a development consisting of the construction planning permission was granted subject to conditions for 13 no. mainly standard conditions for a

development consisting of the construction of one new front dormer window to the existing attic area. The demolition of the existing garage to the rear of the existing house and the construction of a replacement single storey garage to accommodate parking of 2 cars and a gym area together with all associated site works and services. Of note Condition No. 3 restricts the use of the garage use and sets out that it shall not be used for human habitation and Condition No. 5 sets out that the entire premises be used as a single dwelling unit.

- **P.A. Ref. No. F07B/0403:** On the 9<sup>th</sup> day of August, 2007, planning permission was **granted** for a development consisting of the construction 1 no. dormer window to attic area, demolition of existing sunroom and construction of a new single storey extension, construction of a first-floor extension over existing kitchen and internal alterations, demolition of existing garage to the rear and construction of a new garage to accommodate parking for 2 cars and gym.
- **P.A. Ref. No. F00A/0214:** On the 14<sup>th</sup> day of June, 2000, planning permission was **granted** for a development consisting of the construction of a vehicular entrance from Dublin Road and driveway to front garden area.
- **P.A. Ref. No. F00A/0214:** On the 10<sup>th</sup> day of May, 2000, planning permission was **refused** for a development consisting of the construction of a two-storey pitched roof rear extension complete with internal modifications for reasons relating to undue residential and visual amenity impacts.
- **P.A. Ref. No. F99A/1517:** On the 10<sup>th</sup> day of February, 2000, planning permission was **refused** for a development consisting of the construction of a two-storey rear extension, construction of a new front porch in place of existing and provision of a front driveway for reasons relating to undue residential and visual amenity impacts.

#### 4.2. In the vicinity:

- **ABP-309777-21 (P.A. Ref. No.F20A/0715):** On appeal to the Board permission was **granted** subject to conditions for a development consisting of the demolition of warehouse, construction of 2 apartment blocks, 21 residential units together with all associated site works and services. **Decision date:** 10/03/2022.



- **ABP-306703-20 (P.A. Ref. No. F19B/0111):** On a Section 139 appeal to the Board the board decided to amend Condition No. 2 of a part single and part two storey flat roof extensions, to the rear of existing house and all associated site grant of permission for No. 91 Dublin Road. **Decision date:** 09/06/2020.

- **ABP-304655-19 (P.A. Ref. No. F19A/0132):** On appeal to the Board planning permission was **refused** for a development consisting of the demolition of existing warehouse building and construction of 24 no. apartment units and all associated site works and services at lands to the rear of premises numbered 31-34 Baldoyle Road & 'Elphin' licensed premises, Baldoyle Road, for the following stated reasons and considerations:

*“1. The proposed development would endanger public safety by reason of traffic hazard because sightlines at the proposed car park entrance onto the adjoining laneway are deficient for the nature and scale of development proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”*

Of note the Board also attached a note to the Board Direction which reads:

*“The existing laneway over which the proposed development would be accessed comprises a local pedestrian route. This laneway is seriously deficient in width along its length and lacks sufficient capacity to safely accommodate the vehicle and pedestrian movements which the proposed development would generate, along with existing and future pedestrian movements along the lane and those associated with the adjoining public house.*

*In the absence of any comprehensive proposals for the upgrade of this lane and the management of vehicle movements along its length, it is considered that the proposal would constitute over development of the site and would endanger public safety by reason of traffic hazard”.*

**Decision date:** 12/11/2019.

## 5.0 Policy & Context

### 5.1. Development Plan

- 5.1.1. The Fingal Development Plan 2017 – 2023, is applicable to the site and its setting. Under this plan the site is zoned ‘RS’ Residential, and which seeks to: “*provide for residential development and protect and improve residential amenity*”. The stated vision for lands zoned ‘RS’ is to: “*ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity*”.
- 5.1.2. Chapter 12 of the Development Plan sets out ‘Development Management Standards’ and is therefore relevant.
- 5.1.3. Section 12.3 of the Development Plan sets out the ‘Design Criteria for Urban Development’ and indicates that: “*high quality urban design urban design is central to creating vibrant cities, towns and villages*”. It also indicates that: “*the Council is committed to ensuring that best practice urban design principles are applied to all developments. High quality urban design will produce high quality and attractive places where people wish to live, work and enjoy*” and that it is the “*policy of the Council to ensure all development is of a high-quality design and promotes the achievement of accessible, safe and sustainable built and natural environments*”.
- 5.1.4. Objective DMS24 of the Development Plan requires new residential units to comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3 of the Development Plan.
- 5.1.5. Table 12.1 sets out:

Dwelling Type	No. of Floors	Min Gross Floor Area (sq.m.)	Dwelling Main Living Room (sq.m.)	Dwelling Aggregate Living Area (sq.m.)	Dwelling Aggregate Bedroom Area (sq.m.)	Storage Area
1 Bed/2 persons	1	50	11	23	11.4	2.5

- 5.1.6. Table 12.2 is not applicable to houses and Table 12.3 sets out the ‘Minimum Room Sizes and Widths for Houses and Apartments’.

- 5.1.7. Objective DMS29 of the Development Plan seeks to ensure a separation distance of at least 2.3 metres is provided between the side walls of detached units.
- 5.1.8. Objective DMS39 of the Development Plan states that: “*new infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings*”.

## 5.2. Natural Heritage Designations

- 5.2.1. The site is located c63.6m to the north of North Bull Island Spa (Site Code: 00406) and North Dublin Bay SAC (Site Code: 000206) at its nearest point respectively.

## 5.3. EIA Screening

- 5.3.1. Having regard to the nature, scale and scope of the proposed development, the established built-up residential setting of the suburban area surrounding it, in north County Dublin, the nature of the receiving environment, the serviced nature of the site and its surroundings, I consider that 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. The grounds of this First Party appeal can be summarised as follows:
- The proposed mews development is a change of use of an approved garage which has vehicular access onto a mews lane.
  - The site is close to transportation links, community, commercial and retail services.
  - The site is in area which has public mains drainage and water within a residentially zoned area that forms part of the built-up area of Dublin city.

- The proposed development sought is consistent with local through to national planning provisions and guidance.
- The lane serving the site ranges in width from 3.8m to 6.5m with the mews dwelling setback from the point of entry serving the site with safe junction access.
- Most of the lane complies with the requirements for local road as set out in the Design Manual for Urban Roads and Streets. With speed on the lane being less than 20kph with little or no pedestrian or vehicular traffic accommodated on it.
- The applicant already benefits for a grant of permission that permits vehicle access to the site from this lane.
- The proposed dwelling in terms of design standards meets the qualitative and quantitative spatial requirements.
- This development would not give rise to any traffic hazard or road safety issues.
- This development would not give rise to any intensification of car use on the lane.
- The lane is capable of accommodating this development.
- A traffic survey conducted over a four-day period accompanies this appeal submission. This indicates that 4 cars used the lane in this period and their maximum speed was 21.1kmph eastbound and 21.9kmph westbound. The mean speed was 16.7km and 14.7km respectively. A further survey was also conducted by the applicant to support these findings. These findings show that the Transportation Departments comments regarding traffic hazard are misplaced and without foundation.
- The Design Manual for Urban Roads and Streets indicates that narrow carriageways are one of the most effective design measures to calm traffic.
- Developments like that proposed should be allowed along this lane with setbacks so that in time this would facilitate its widening. This is the approach that was taken for Windsor Terrace.
- The applicant does not object to reducing the car parking provided on-site.
- Connection is proposed to public mains water and drainage with attenuation in compliance with SuDS also proposed.

- An overview of the planning history of the site is given.
- Mews dwellings are in line with national planning policy as they promote increased residential densities in proximity to public transport, employment opportunities and the city centre.
- The Board is requested to overturn the decision of the Planning Authority to refuse permission for the development sought under this application.
- This submission is accompanied by letters of support.

## 6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The application was assessed against the relevant planning provisions and guidelines.
- The Board is requested to have regard to the planning history of the site and lane. In particular the Boards determination on appeal cased ABP Ref. No. PL06F.304655 and PL06F.306913.
- Whilst the applicant as part of their appeal submission provides letters of support for the proposed development, they do not include any letters of consent to undertake the work required to widen the laneway.
- The Board is requested to uphold their decision.
- Should the Board be minded to grant permission it is requested that a Section 48 development contribution condition be attached.

## 6.3. Observations

6.3.1. The observation received by the Board can be summarised as follows:

- The proposed development sought under this application is objected to.
- The proposed development would be accessed by a laneway which runs to the rear of No.s 88 to 100 Dublin Road and a lane which passes between the Elphin public house and its car park. In addition, a bottle store for this public house is

located on the opposite side and the public house on the other side with this creating a pinch point.

- The lane in part narrows to 3.6m and 3.8m in its width in places.
- The Board on appeal refused apartments with access onto this lane under ABP-304655-19. Reference is made to the Boards decision and the Boards Inspectors report.
- The Planning Authority's decision to refuse permission reflects the Board's ABP-304655-19 decision.
- This lane is an important pedestrian route connecting Binn Eadair View to Baldoyle Road and the Howth Road where there is a wider selection of buses. It also provides connection to Baldoyle Road and Seafield Estate to Sutton Station through Binn Eadair View. It is regularly used until late into the night. It is also used to access the public house at the end of the laneway for people coming from Binn Eadair View and Sutton.
- This lane contains no footpaths and is often used by pedestrians as well as cyclists.
- The developer's traffic survey is not representing the usual use of this lane as it was carried out during March 2021 lockdown.
- The observers contend that they use the lane regularly as they commute by train or bike with this lane being their means of access to Sutton Station.
- Photographs purporting to show the normal use of the lane are submitted.
- At the western end of the lane there is no possibility for this lane to be widened as it is constrained by Elphin Public House, its bottle store, and its car park.
- Delivery vans block the lane for unloading at the Elphin public house.
- Most of the residents along this lane have only pedestrian access onto the lane. It is contended that those who have vehicular access do not use it regularly. This is confirmed by the traffic survey accompanying planning appeal case ABP-309777-21.
- There is no access for a bin lorry to serve this development nor is there any solution proposed as to where bins would be left for collection by future occupants.

- The increased traffic this development would generate would interfere with its existing use by pedestrians and cyclists.
- The proposed development has already been constructed as a garage and the proposed development relates to the conversion of this existing structure.
- The justification for the garage structure on the subject site was to eliminate car parking to the front of No. 94.
- The applicant has already commenced works by removing the garage doors and they have amended the rear boundary for the habitable dwelling proposed.
- This development has already been refused by the Planning Authority.
- Concerns are raised that by referring to the attic space as non-habitable the applicant is seeking to put this development outside of Building Control Regulations. It is clear that upstairs of this structure would also be for habitable use. With access to it via a staircase and with skylights providing light.
- Objective DMS29 of the Development Plan requires that a separation distance of at least 2.3m be provided between the side walls of detached, semi-detached and end of terrace units. This is to allow for adequate maintenance and access. This development fails to achieve this with 1.075m and 0.913m being the separation distances between the dwelling and boundary wall. This width is inadequate for maintenance and access.
- Objectives DMS16 and DMS17 of the Development Plan encourages the use of green walls and roofs. This has not been considered under this application.
- The proposed development would have no impact on availability of housing as it consists of a single storey one bedroom dwelling and the attempt to link it as being consistent with regional as well as national planning policy provisions is misplaced.
- The proposal to put traffic onto a pedestrian route where such traffic would create a hazard and obstruction to pedestrians and cyclists would be contrary to National Planning Framework NPO 27.
- This development, if permitted, would significantly impact on the amenity of this residential area.

- The conversion of rear landscaped gardens behind this row of Victorian and later 20<sup>th</sup> Century buildings would not be enhanced by a row of *ad hoc* mews housing of different fashion and styles.
- The dwelling sought under this application is not innovative nor attractive in its design features. Essentially the proposed changes to residential use does not include any material changes to the existing garage appearance.
- This type of development would give rise to overshadowing of adjoining properties.
- Regard should be had to the fact that Dublin is a low-lying coastal city and the projects that it will be subject to increased risk of flooding over the next decade.

## 7.0 Assessment

- 7.1. I have read the appeal file, all associated reports, plans and submissions, I have also conducted an inspection of the appeal site and its setting. The development sought under this application in summary consists of the construction of dwelling to the rear of No. 94 Dublin Road; subdivision of rear garden space; together with associated site works and services including but not limited to landscaping and boundary treatments.
- 7.2. In relation to this First Party appeal and the development sought under this application I first of all note to the Board that I concur with the Observer that the proposed development relates to the conversion, change of use and alterations of an existing structure that was permitted previously at this location under P.A. Ref. No. F18B/0186. As such the description of the development given in the public notices for the proposed development sought under this application does not reflect the actual nature of the proposal sought.
- 7.3. Under the previously permitted application, P.A. Ref. No. F18B/0186, the Planning Authority granted a development that included but was not limited to the demolition of an existing garage structure located to the rear of No. 94 and its replacement with a single storey garage to accommodate the parking of two cars and a gym area.
- 7.4. At the time of my site inspection, it was apparent that substantial works have taken place to construct this permitted structure though it is yet to be fully completed internally and externally.



- 7.5. On the basis of these considerations, I am of the view that the public notices are not consistent with providing an accurate brief description of the actual development sought under this application. With this being the case should the Board be minded to grant permission I recommend that as a precaution they first seek revised public notices.
- 7.6. This proposal as said relates to the rear portion (Note: 285m<sup>2</sup>) of No. 94 Dublin Roads long rectangular urban plot. This plot has a given overall site area of 668m<sup>2</sup>. Alongside the uncompleted structure already mentioned, it contains a much-extended two storey with attic conversion semi-detached dwelling that is setback from the Dublin Road by a mainly gravelled area in use for off-street car parking. It also contains recently constructed rear boundary treatments and amended pedestrian as well as vehicle access onto the adjoining cul-de-sac lane that runs along the rear of the site. The yet to be completed garage is setback c9.2m to c9.8m from a cul-de-sac access lane. With this lane opening onto Baldoyle Road c95m to the west of the rear boundary at its nearest point.
- 7.7. As said the rear boundary has been subject of modifications which includes a splayed setback boundary for its most part having a stated height of 2.4m containing a pedestrian gate and vehicular entrance. The height of the boundary appears to be much higher than the aforementioned 2.4m indicated in the documentation provided. Notwithstanding, this amended boundary which in part includes tall concrete block walls that return into the western and eastern boundary along the setback car parking area to the front of the uncompleted garage structure visually screens for the most part this structure, which has a gable shaped form, an eaves height of 2.85m and ridge height of 5.567m from view from the public domain. Other mainly man-made and natural features further obscure views of this structure within its visual setting.
- 7.8. The cul-de-sac lane to the west of the site for the most part has a restricted width. During inspection I observed that its width measured 3.6m at where it appeared to be most restricted in its width though its width to the west of the site generally averaged at 4m.
- 7.9. I observed that the cul-de-sac lane mainly accommodates openings that provide pedestrian access to the rear of properties adjoining it. I observed few vehicle access points and none facilitating the only vehicle access to a residential property. I also

observed that its alignment changes to the east of the site to where it terminates. In this direction the width is also restricted and the change of alignment relative to the vehicle access serving the site and due to obstruction has limited views in this direction. There is also limited views westwards for vehicles due to the obstructions in place and outside of the control of the applicants. The lane appears to function primarily for pedestrian and cyclists for properties adjoining it and as a short cut for pedestrian and cyclists in this locality.

7.10. The subject site is located within the Dublin city suburb of Sutton, c13km by road to the city centre and within a location easily accessible to public transportation, services, and other amenities beneficial to residential development. It is also located on urban land that is residentially zoned (Note: 'RS' zoned under the Development Plan). On such lands the general principle of residential development on serviced land is acceptable, subject to safeguards.

7.11. Notwithstanding, the planning history of the site includes most recently a refusal of planning permission for essentially the primary component of the development sought under this current application, i.e. the construction of a one bedroom single storey dwelling with non-habitable floor space in the attic (total 112m<sup>2</sup>) to the rear of existing dwelling, with two car parking spaces which will be accessed off the lane to the rear together with all associated site works and services (Note: P.A. Ref. No. F20A/0683). The Planning Authority's stated reason for refusal reads:

*"The existing laneway over which the proposed development is to be accessed comprises an important local pedestrian route. The laneway is considered to be seriously deficient in width along its length and lacks sufficient capacity to safely accommodate the vehicle and pedestrian movements which the proposed development would generate combined with the existing and future pedestrian movements associated with the adjoining public house and the Binn Eadair housing estate. In the absence of any comprehensive proposals for the upgrade of this lane and the management of vehicle movements along its length, it is considered that the proposal would constitute ad hoc piecemeal development which would endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

- 7.12. Of concern the applicant has not sought by way of this application to address this reason for refusal by way of for example entering into consultation with other landowners to the west of it to achieve an appropriate width for the lane so as to allow it to function as a safe shared space for vulnerable users and traffic.
- 7.13. Whilst I accept that the nature, scale, and extent of the residential development sought under this application when completed is unlikely to generate significant traffic along the cul-de-sac lane. I also accept that the lane appears to accommodate limited vehicles along it and that the site of No. 94 benefits from vehicle access onto to the cul-de-sac for the occupants of what is a single dwelling with off-street car parking to the front accessed from Dublin Road. The latter in an urban context is a substantial area for off-street car parking for vehicles accessing and egressing from Dublin Road for one dwelling unit. In addition, the location of this off-street car parking is more accessible for the occupants of No. 94 Dublin Road given the layout and spatial arrangement of buildings as well as spaces of this property. It does not appear that area to the rear of No. 94 Dublin Road has been in regular use for vehicle access and egress by occupants of this property and the cul-de-sac lane to the west of the vehicle entrance to the rear of this property is substandard in its nature to accommodate vehicle movements given its restricted width and overall layout.
- 7.14. In relation to the concerns raised by the observer that the dwelling unit sought is not as modest as is suggested by the applicant in the information provided, not being a modest single storey one bedroom dwelling unit, I consider that this is of merit. Based on the overall built form and the 112m<sup>2</sup> of the floor area being indicated as non-habitable. Yet this non habitable area is served by a stairs, is lit by a number of velux window lights and is subdivided into rooms that are accessed from a first-floor level hall. Indeed, the drawings indicate that attic space would accommodate study, studio space alongside storage and service area. Though this area does not meet Building Regulations requirements for habitable residential space I consider even if its use is non-habitable which is not fully supported by the documentation provided the non-habitable floor area is excessive for a one-bedroom dwelling house. Alongside it results in additional unnecessary height for what is suggested to be a single storey dwelling unit overall built form.
- 7.15. I do not accept the appellants arguments that the proposed development would not give rise to any increase in traffic generation on this lane. This is based on the fact

that this application seeks the subdivision of the site for the provision of an additional independent dwelling unit that in the drawings contains parking for two cars between its principal façade and the lane. This is one more than required for this type of dwelling unit and is a high degree of car reliance for a one-bedroom dwelling unit given that this location is well served by public transport. As well as given the fact that future occupants of this dwelling would be solely reliant upon a substandard in width cul-de-sac lane that is used by pedestrian as well as cyclists for all of their access and egress requirements.

- 7.16. Whilst the appellant indicates that they are willing to reduce the car parking spaces to the front of the dwelling unit sought under this application to one space they have provided no amended drawings to show this as part of their appeal submission.
- 7.17. They have also not provided any swept analysis to show that the proposed two spaces indicated in their submitted drawings would not give rise to any potential for conflict with vulnerable users of the lane in terms of accessing and egressing the car parking setback area.
- 7.18. I accept that the car parking space provision could be reduced by way of condition, and this would be appropriate in my view should the Board be minded to grant permission for the development sought under this application. On the basis that such a reduction would be consistent with local to national planning provisions as well as guidance which advocate and seek to reduce private car reliance by this type of development. Such a reduction would also ensure that the car parking standard as set out in the Development Plan for a one-bedroom unit is met. Moreover, a reduction in hardstand potentially could result in opportunities on site for a greater area of deep soil and in turn infiltration of surface water on site. Notwithstanding, the reduction in car parking spaces on site alone does not overcome the need for a coordinated and comprehensive approach to improving and achieving an acceptable width of this cul-de-sac lane for the length of it between the vehicle access serving the site and for the entirety of its length to where it would meet the Baldoyle Road.
- 7.19. Further, in relation to other developments permitted recently on the cul-de-sac lane the recent grant of permission by the Board for a site bounding Elphin Public House to the east and including part of the lane as well as including modifications to the Public House building and its bottle storage building (Note: ABP-309777-21), if implemented,

these improvements to the lane would be remote from the site itself and as such are insufficient to support vehicle movements to an independent dwelling unit on the site itself. Further, if implemented together with the loading, deliveries and car parking associated with the Elphin Public House there will be an increase in vehicle movements towards the western end of this cul-de-sac lane in proximity to its junction with the Baldoyle Road.

- 7.20. In the absence of a coherent and comprehensive plan for accommodating mews type of developments along a lane whose predominant function is accommodating movement of pedestrians and cyclists would in my view be premature. It would also establish an undesirable precedence for *ad hoc* residential development similarly served by vehicle access and boundaries that negate achievement of adequate sightlines and coherent improved lane width. In turn the cumulative impact of such developments has the potential to give rise to obstruction and traffic hazards over and above the existing situation for this lane's vulnerable users.
- 7.21. As such the intervening stretch between the development permitted under ABP-309777-21 would contain no footpaths, has limited street lighting, is poorly surfaced and would still be significantly restricted in its width at points. With its average width being approximately 4m.
- 7.22. In addition, I also observed that the electricity posts are set out from the boundaries adjoining it in places with this restricting the width further to approximate 3.6m at its most restricted width.
- 7.23. There are also other restrictions arising from structures projecting onto it with this including the substantive plant contained on the southern elevation of the Elphin Public House.
- 7.24. I accept that this lane is one which accommodates pedestrian and cyclists' connectivity, particularly for residents of the Binn Eadair residential scheme and from Dublin Road towards Sutton train station as well as connectivity to Baldoyle Road that includes a number of bus stops. Against this context it would be appropriate that prior to any residential development occurs along the length of the lane on sites which could potentially accommodate subdivision for mews type development that how this lane could safely function as a shared space is addressed and the lane modified to achieve a safe shared space environment.

- 7.25. In relation to other concerns such as flooding and design of the proposed dwelling unit I concur with the appellant that it lacks any innovative and/or site sensitive response to its setting. Of significant concern the design provides no indication that regard was had to the fact that the site's coastal location and an area at risk of tidal flooding. I am not satisfied based on the drawings submitted that the finished floor levels would be set at or above 4.00m AOD (Malin Head). I therefore consider that this matter in itself requires additional information.
- 7.26. In relation to the recommendations given by the Planning Authority's Landscaping Department I consider that there is merit in amending the design of the rear boundary so that it more appropriately addresses the lane as well as gives rise to improved levels of passive surveillance. The Board may wish to consider imposing conditions reflecting these recommendations which I note also includes qualitative improvements to the boundary and landscaping treatment. This would achieve improved visual amenity outcomes alongside would improve the sense of safety by way of improved passive surveillance for users of the lane.
- 7.27. In terms of residential amenity impact I do not accept that the proposed development if permitted would give rise to any significant adverse residential amenity impact by way of overlooking, overshadowing or otherwise to properties in its vicinity.
- 7.28. In terms of residential amenity of future occupants, it is unclear how future occupants propose to address waste management on site and disposal off site.
- 7.29. In conclusion, I recommend that the Board uphold the Planning Authority's reasons for refusal.

## 8.0 Recommendation

- 8.1. I recommend that planning permission be **refused**.

## 9.0 Reasons and Considerations

1. The existing laneway over which the proposed development is to be accessed comprises an important local pedestrian route. The laneway is considered to be seriously deficient in width along its length and lacks sufficient capacity to safely accommodate the vehicle and pedestrian movements which the proposed

development will generate combined with the existing and future pedestrian movements associated with the adjoining public house and the Binn Eadair housing estate. In the absence of any comprehensive proposals for the upgrade of this lane and the management of vehicle movements along its length, it is considered that the proposal would constitute an *ad hoc* piecemeal uncoordinated development which would endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector

11<sup>th</sup> day of August, 2022.