



An
Bord
Pleanála

Inspector's Report

ABP-315065-22

Development	Construction of 6 houses including boundary treatment, access roads and driveways, connections to mains sewer and water including ancillary works.
Location	"Southwinds", Ulverton Road, Dalkey, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0638
Applicant(s)	Eileen Sullivan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Eileen Sullivan
Observer(s)	1. Patrick Caulfield & Marguerite Caulfield 2. Tom & Elke Palmer

3. Derek & Jean Jago
4. Felix McTiernan & Kathleen
McTiernan
5. Joseph Campbell & Marie O' Reilly

Date of Site Inspection

14/12/2023

Inspector

Paula Hanlon

1.0 Site Location and Description

The site subject to this appeal (hereafter referred to as 'the site') is located within the urban and built area of Dalkey, Co. Dublin. The site (stated area 0.226ha) which currently lies undeveloped, has no road frontage and is accessed via a narrow, unsurfaced private laneway that extends over a distance of approximately 85 metres to the site and connects with the eastern side of Ulverton Road. A number of established vehicular and pedestrian entrances associated with adjoining residential development have direct access onto this laneway. The site is bound by low rise detached houses (number 3 & number 4 Southwinds) to the northwest, a dormer dwelling (number 54a Ulverton Road) and bungalow 'Southwinds' to the west, two-storey dwellings (numbers 17, 23A, 'Ketu' 25 Church Road and number 1 Church Hill Mews) to the south and the rear gardens of house numbers 1-5 Barnacoille Park to the northeast and east.

The topography of the site is broadly level and unkempt with grass, weeds and gorse within the confines of the site. Temporary galvanised steel fencing secures access into these lands at present.

The serving laneway aligns with the northwestern boundary of the Architectural Conservation Area for Dalkey Village and the subject lands lie outside of the zone of archaeological potential for the centre of Dalkey (DU023-023). Dalkey Coastal Zone And Killiney Hill Proposed Natural Heritage Area is located c.305m east, Dalkey Islands Special Protection Area c.700 metres southeast and Rockabill to Dalkey Island Special Area of Conservation is c.1kilometre east of the site. The surrounding area is served by public watermains and public wastewater services.

2.0 Proposed Development

The construction of 6 houses (4(no) detached and 2(no) semi-detached ranging in size from 149m² - 262m²) including boundary treatment, access roads and driveways, connections to mains sewer and water including ancillary works.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 17 October 2022, Dun Laoghaire Rathdown County Council issued a notification of decision to refuse planning permission for 1(no.) reason. The Planning Authority's (PA) reason for refusal cited issues in relation to the proposed development by virtue of proximity of houses to site boundaries, massing, relationship to adjacent properties and overall design, and stated that if permitted, would have adverse impacts on the residential amenities of adjacent properties due to overlooking and overbearing appearance, detract from the existing amenities of the area and depreciate that value of property in the vicinity. The PA in its reason for refusal further outlined that the proposal would not accord with the provisions of the County Development Plan (noting in particular Section 12.3.7.6 Backland Development and Section 12.3.7.7 Infill) and would set an undesirable precedent, if permitted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One Planning Report is attached to the file and recommended that planning permission for the proposed development be refused. This report outlined that whilst the site 'is considered suitable for an appropriately scaled and designed infill residential development', that the proposal was unacceptable and would adversely impact on the residential amenity of adjacent properties by reason of overbearing appearance and overlooking. In making the recommendation to refuse planning permission, this report referred to the objective A zoning of the site, the proximity of proposed dwellings to site boundaries, massing, relationship to existing adjacent properties and the proposed overall design.

3.2.2. Other Technical Reports

Transportation Section: Further Information sought on sightlines, details on access lane and that a Construction Management Plan (CMP) be provided.

Environment Section: Further Information sought, including that a Construction & Demolition Waste Management Plan and CMP be provided and further details on noise and operational waste management.

6(no) conditions suggested in the event that planning permission is granted.

Drainage Planning, Municipal Services Department: Further Information sought on surface water run-off, hardstanding areas and rainwater harvesting systems.

Housing Section: Compliance with Part V of the Planning and Development Act 2000, as amended (PDA) sought, noting that an application for an exemption certificate (reference no. V/062/22) was refused.

Building Control Department: Requested that the development remain in private ownership and maintained by an owner's management company, noting that the access lane is not to the Council's taking in charge standard.

3.2.3. Prescribed Bodies

Irish Water: Further information sought including Confirmation of Feasibility of connection to the public water/wastewater infrastructure.

3.2.4. Third Party Observations

The PA received five third-party submissions during the course of their determination with each of the submissions made from concerned residents in the immediate vicinity. In summary, the matters raised relate to the proposed design & layout, proximity to site boundaries, impacts on residential amenities of adjoining properties (overlooking, overshadowing), proposal being out of character with the area, traffic hazard, refuse management, impacts on biodiversity, legal interest (laneway) and other procedural issues, including matters pertaining to the erection of site notice and specifics on the accuracy of detail contained within submitted plans.

4.0 **Planning History**

4.1. Appeal Site

D23A/0325 (PL06D.318261): 6(no) dwelling houses and associated works refused on grounds of lack of visibility onto Ulverton Road and lack of adequate footpath facilities between proposed development and Ulverton Road. This application is the subject of a concurrent planning appeal.

D17A/0797: Revised design and siting of dwelling house granted under D06A/1619/E refused on grounds of piecemeal development in isolation of the development of land to the east and northeast, injure amenities or depreciate value of properties in vicinity.

4.2. Southwinds Bungalow (Shown on Submitted Site Layout as 'Existing Bungalow 1')

There are a number of planning history cases (2005-2010) pertaining to this bungalow, which adjoins the NW boundary of the redline boundary. Under planning reference D10A/0608, permission for demolition of existing 'Southwinds' bungalow and for a replacement bungalow and associated works was granted and subsequently constructed.

Previous applications, D08A/0929 (PL06.D.231619), D07A/0168 (PL06D.223130), D06A/1595 (PL06D.221775) and D06A/0118 were refused and upheld on appeal on varying grounds which included overdevelopment (too close to front and rear site boundaries), out of scale and character with its surroundings, visually intrusive, injurious to the amenities of the area, proximity to NW boundary - overshadowing & visual dominance onto number 3 Southwinds.

4.3. Surrounds

D06A/0443: Two number two-bedroom apartments, refused and upheld on appeal on grounds of out of character with the area, visually obtrusive and injurious to the amenities of neighbouring properties.

5.0 Policy Context

5.1. Dún Laoghaire Rathdown County Development Plan 2022-2028

The Dún Laoghaire Rathdown County Development Plan 2022-2028 (CDP) which came into effect 21 April 2022 is the operative Development Plan.

5.1.1. Land Use Zoning

The site is zoned Objective 'A' in the CDP with a stated objective '*to provide residential development and improve residential amenity while protecting the existing residential amenities*'.

5.1.2. Other Relevant Policy Objectives and Standards

Council's policy objectives PHP3 (Planning for Sustainable Communities), PHP18 (Increasing housing supply and promotion of compact urban growth through consolidating and re-intensifying of infill/brownfield sites), PHP19 (small infill development), PHP20 (Protection of existing residential amenity), PHP35 (Healthy Placemaking/Attractive Places), PHP40 (Shared Space Layouts), E16 (Sustainable Drainage Systems (SuDs), HER13 & HER21 (Protection of Architectural Conservation Areas) and Development Standards (Sections 12.3 Neighbourhood - People, Homes and Place [12.3.7.6 Backland & 12.3.7.7 Infill, 12.4 Transport, 12.8 Open Space and Recreation (incl. Boundaries), 12.9.4 Construction Management Plan and 12.9.10.2 Street Lighting] are also relevant to the consideration of this appeal.

Section 12.3.7.6 Backland Development (Development Management Standard)

... Where the Planning Authority accepts the general principle of backland residential development to the rear of smaller, more confined sites, within the existing built-up area, the following standards will apply:

- Generally, be single storey in height to avoid overlooking.
- Appropriate scale relative to the existing dwelling and of high quality of design.
- Adequate vehicular access of a lane width of 3.7 metres must be provided to the proposed dwelling (3.1 metres at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- A wider entrance may be required to a backland development to or from a narrow laneway.

- Existing dwelling and proposed dwellings shall have minimum individual private open spaces - exclusive of parking - of 48 sq.m. each for one/ two-bedroom units, or 60 sq.m. plus for three/ four or more-bedroom units.
- Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- Proposed two storey backland dwellings shall be located not less than 22 metres from the rear façade of the existing dwelling where windows of habitable first floor rooms directly face each other. Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.
- A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity. Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development, this should be discussed at pre-planning stage. Piecemeal backland development with multiple vehicular access points will not be encouraged.

12.3.7.7 Infill (Development Management Standard)

In accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. 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. This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban ‘Garden City’ planned settings and estates that do not otherwise benefit from ACA status or similar. (Refer also to Section 12.3.7.5 corner/side garden sites for development parameters, Policy Objectives HER20 and HER21 in Chapter 11).

5.2. **Project Ireland 2040 – National Planning Framework**

The NPF 2040 was adopted on 29 May 2018 with the overarching policy objective to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside. The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns, and villages on infill and/or brownfield sites. It also seeks to tailor the scale and nature of future housing provision to the size and type of settlement.

National Policy Objective 27 (Ensure the integration of safe and convenient alternatives to the car into the design of our communities...).

5.3. **‘Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities’ (2024)**

Table 3.1 Areas and Density Ranges Dublin and Cork City and Suburbs

City - Urban Neighbourhoods

The city urban neighbourhoods category includes: (i) the compact medium density residential neighbourhoods around the city centre that have evolved overtime to include a greater range of land uses, (ii) strategic and sustainable development locations, (iii) town centres designated in a statutory development plan, and (iv) lands around existing or planned high-capacity public transport nodes or interchanges (defined in Table 3.8) – all within the city and suburbs area. These are highly accessible urban locations with good access to employment, education and institutional uses and public transport. It is a policy and objective of these Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork.

SPPR 1 - Separation Distances

...Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent

undue overlooking of habitable rooms and private amenity spaces... In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties.

SPPR 3 - Car Parking

(i) It is a specific planning policy requirement of these Guidelines that: (i) In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.

5.4. Natural Heritage Designations

The site is not located on any designated Natura 2000 site(s). The nearest Natura 2000 sites are Dalkey Islands Special Protection Area (Site Code 004172) located approximately 700 metres SE and Rockabill to Dalkey Island Special Area of Conservation (Site Code 003000) located approximately 1 kilometre east of the site. The site is also located approximately 305 metres east of Dalkey Coastal Zone And Killiney Hill Proposed Natural Heritage Area (Site Code 001206).

5.5. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or an EIA determination therefore is not required.

6.0 The Appeal

6.1. Grounds of Appeal (First Party)

The appellant contends that the wide variety of housing within the receiving environment allows flexibility and that the current proposal is appropriate in regard to density, house type, lateral separation, external finishes and other parameters. It is stated that a Shadow Study forms part of the application. It is also stated that the serving private laneway (with sewer, storm, watermains and other services in-situ) does not form part of the site and that this laneway is the property of the applicant (delineated within blue line boundary).

Reference is made to the proposed house designs, extent of gardens, window types & glazing, and it is inferred that the design put forward will have minimum impact on existing houses that adjoin the site. The first party appeal comments that all of the issues cited in the Council's decision are addressed under the following points: proximity to site boundaries, massing relationship to existing boundaries & overall design, and overlooking and overbearing.

The applicant confirms that in considering the PA's decision, that permission is sought for the plans submitted at planning application. A 'contingency submission' which references suggested amendments to first floor windows on rear elevations (house numbers 2,3 & 4) so as to reduce overlooking and secure privacy (referred to as 'Option B') is included within the written appeal. The applicant refers to the site history and to a number of planning histories with similar such developments on similarly zoned lands in the surrounding area. A letter of support from an adjoining resident to the subject site accompanies this submission.

6.2. Planning Authority Response

A response has been received from the PA dated 25 November 2022. The PA comments that no new matter is raised within the grounds of appeal which, in its opinion would 'justify a change of attitude to the proposed development'.

6.3. Observations

5(no) observations were received. The matters raised are similar to those raised within the third-party submissions made to the PA. It is detailed that the documentation submitted on appeal does not provide any material evidence on addressing the issues raised by the Council and third parties, and that all previous matters raised in the large number of previous refusals pertaining to site remain valid to this application. The validity of a contingency 'Option' submitted as part of the appellants documentation to the Board is queried. A summary of the matters raised is set out below.

Site Context

- Shoehorned development, constituting overdevelopment of the site. Concerns of overshadowing and overlooking of adjoining properties raised, with specific reference to Southwinds bungalows (3 & 4), 54A Ulverton Road, rear gardens of 54 & 56 Ulverton Road and other adjacent homes to the south and north.
- Concerns on the accommodation of vehicles on the serving substandard private laneway with restricted sightlines not addressed.
- Proposal detracts from the existing unique character of the area, due to height, bulk and scale, noting also its proximity to an architectural conservation area.
- Proposal contravenes policy objectives PHP18 (Residential density & a high quality sustainable residential development), PHP20 (protection of existing residential amenity), HER13 (protection of Architectural Conservation Areas) and paragraphs 12.3.7.6 (backland development) & 12.3.7.7 (Infill) of the CDP.

Additional concerns are expressed in relation to ground conditions (rock breaking) and the need for further investigations (design/drainage); existing trees and rubble stone boundary wall due to proximity to proposed house number 2; impacts on existing badger and fox, which are stated as being 'observed most evenings moving from backlands onto Ulverton Road', and the economic impact of the proposal on property values and applicable property tax in the vicinity.

Procedural:

- Access Laneway
 - Exclusion of private access laneway on proposed map is misleading, given extent of proposed works to laneway detailed within submitted plans.
 - No title provided on ownership of laneway.
 - Inaccuracies on drawings.
 - Failure to comply with previous permissions.
 - Failure to consult with its established users.
- Documentation Submitted
 - Inaccuracies on dimensions shown for proposed and existing adjoining development (incl. height of adjoining wall).
 - Non-compliance with establishment of Private Management Company requirements (Multi-Unit Developments Act 2011) and Waste Management requirements.
 - Construction Management Plan is deficient.
- Site Notice
 - Non-compliance with Art. 19(1)(b)(c) and Art. 22(2) of the regulations.

6.4. Further Responses

None received.

7.0 Assessment

Under the provisions of the Dún Laoghaire Rathdown County Development Plan 2022-2028 (CDP), the site is contained within an area zoned Objective 'A' whereby it is the Council's objective *'to provide residential development and improve residential amenity while protecting the existing residential amenities'*. In this regard, I am satisfied that residential development is acceptable in principle on these lands and note that this is not refuted by any parties (including the PA).

I have examined the application details and all other documentation on file, including the first party submission (the subject of this appeal) and observations received. Accordingly, following a site inspection and having regard to the relevant local/national policy objectives, guidelines and standards, I am satisfied that the main issues to be considered in determining this appeal are as follows:

- Design and Layout
- Road and Traffic Safety
- Procedural.

7.1. Design & Layout

7.1.1. Density & Form

I consider that the proposed development constitutes 'infill' residential development within unkempt backlands that are surrounded by a mix of residential designs and form. Having regard to the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' ('Guidelines') and the provisions of the CDP, I have assessed the proposed development in terms of attaining a balance between the character of the area and the reasonable protection of the amenities and privacy of established residential property which adjoins this site, and the need to provide additional residential development and promote compact growth at this location.

In this regard, I have reviewed matters raised in the PA's reason for refusal by reason of impacts on the residential amenity of adjoining development and matters raised within submitted observations by adjoining third parties. Section 3.3 of the recently adopted Guidelines sets out that density within 'City - Urban Neighbourhoods' in Dublin should be generally within the range of 50 dph to 250 dph, based on consideration of centrality and access to services and public transport, and considerations of character, amenity and the natural environment. Whilst the density proposed is significantly below the stated range, I am satisfied that it is appropriate in principle, given the restricted nature of this site, access provision and the character of

the area which surrounds this site, coupled with the need to ensure that private residential amenities of adjoining properties are protected.

Notwithstanding, I have concerns regarding the overall site layout proposed in terms of its relationship with adjoining residential property and prevalence of car parking, as considered below.

7.1.2. Visual Impact

It is of relevance that the proposed development is located outside of the designated Architectural Conservation Area and that the southern boundary of the access lane serving the site lies immediately adjacent to the boundary of the ACA. In terms of visual amenities and the protection of the character of the area, I consider that the principle of the house designs proposed (including mansard roofs), by virtue of siting, setback a distance of approximately 85 metres from Ulverton Road will not negatively impact on the appearance and character of the streetscape and in this context, are generally acceptable on this infill and backland site.

7.1.3. Residential Amenity

Proximity to Site Boundaries

Section 12.1 of the CDP refers to promoting a high level of amenity and quality design, and to protect and complement existing amenities and character, in the interests of sustainable and orderly development. In this context, I note that the private amenity areas serving number 3 and number 4 Southwinds to the north and northwest are irregularly shaped and I consider that by virtue of their narrow depth and proximity to proposed house number 2, would incur undue loss on private residential amenities due to overbearance, with the NW elevation of proposed House 2, 7.75 metres height and 12.6 metres length, a distance of 1.2 metres at its nearest point to party boundary with number 4 Southwinds and within proximity to number 3 Southwinds, with intervening services. Furthermore, the party boundary comprises in part a rubble stone wall and mature trees currently and I note that no details were submitted on protecting the existing boundary treatment which is proposed to be retained. Accordingly, I have concerns in relation to the potential for the established boundary to be retained, given

the proximity of the development proposed and associated negative impacts on the residential amenities of adjoining properties at Southwinds, should permission be granted. I further consider that the overall massing, design and layout of proposed House 7 and degree of setback i.e., 1.01 metre from adjoining western boundary with number 54A Ulverton Road, within the southwestern corner on this restricted site, will result in overbearance.

In light of this and in accordance with zoning objective A attached to this site and area which states that it is Council's objective *'to provide residential development and improve residential amenity while protecting the existing residential amenities'*, I consider that the proposed layout by virtue of the siting and design of House Number 2 and House Number 7, if permitted, would seriously injure the amenities of adjoining residential property. I am of the view that these concerns cannot be sufficiently addressed by way of condition, given the restricted configuration of this site and that any re-design proposals, coupled with concerns regarding car parking as discussed below require a holistic approach in the context of the overall development of this site and site layout proposed. A refusal on these grounds is therefore recommended.

Overshadowing

A Shadow Analysis Report accompanied the application to the PA. I note that the matter of overshadowing was raised within the observations received and that this matter was not raised by the PA in their reason for refusal.

The submitted Shadow Analysis report outlines the perceived impacts of shadows cast by the proposed development at 08:00, 12:00 and 16:00 on the sixth day of February, April, June, August, October, December, and 21 March (Equinox). This report concluded that cast shadow on adjoining private gardens will have a slight to imperceptible impact on adjoining residences in Southwinds (number 3 & 4) and number 54A Ulverton Road to the west and private rear gardens in Barnacolle Park to the east. I acknowledge and generally accept that in an urban context and in accordance with guidelines, it must be borne in mind that nearly all structures will create areas of new shadow, and some degree of transient overshadowing of a space is to be expected. In this regard, I am satisfied that the extent of cast shadow during daylight hours on EQS 21 March will provide for at least 2 hours of sunlight within all

adjoining private gardens to the proposed development and that the perceived impacts due to overshadowing will remain at slight or imperceptible. Notwithstanding, I consider that with a revised design and layout, the amount of natural light penetration into the scheme could be maximized and the extent of cast shadow on adjoining private gardens could be lessened.

Overlooking

I note in the outset that the matter of overlooking was raised by observers and within the PA's reason for refusal. The appellant as part of their first party appeal submission detail that they continue to seek permission for the submitted application and provide a suggested 'contingency proposal' as part of the written appeal to proposed house numbers 2, 3 and 4, notably the replacement of windows at first floor level on rear elevation with a recessed, narrow fenestration within a revised roof space.

I have considered the proposed site context, including house design(s), boundary treatment, siting and orientation. The rear gardens associated with adjoining residential development at Barnacaille Park to the east of this site are in excess of 30 metres, with the depth of private rear gardens proposed that face directly onto this rear boundary in excess of 9.5 metres and hence, I am of the view that the resulting relationship between the first floor windows and the rear gardens of Barnacaille Park is quite typical and therefore is not a matter which warrants refusal as raised by the PA. I further note that notwithstanding the proximity of proposed house 5 to the eastern boundary, given the design approach, this dwelling will not give rise to overlooking. In terms of proposed house 2, sited a minimum 1.2 metres from adjoining boundary with Southwinds, I have reviewed proposal in the context of concern of overlooking by reason of proximity and angle as expressed by an observer. However, I consider that on the basis of the angle of opposition, the degree of overlooking is not so significant as to present an undue loss of amenity to adjoining dwelling (i.e., number 4 Southwinds) by virtue of overlooking. In terms of the southern boundary, I note that the depth of private gardens to rear of proposed house numbers 5,6 and 7 are in excess of 9.38 metres and that adjoining established residential development lies close to this site boundary. However, due to the design and layout of established units

to the south of this site, with no windows on the northern elevation, I am satisfied that the proposed houses will not give rise to overlooking issues.

Overall, I can appreciate the perception of overlooking over the rear gardens arising from this development given its proximity to party boundaries, however there are no directly opposing windows. In this regard, having considered the siting, orientation and design approach (including boundary treatment), I am satisfied that the proposed development would not give rise to overlooking and is consistent with Section 12.8.7 Private Amenity Space – Quality Standards of the CDP.

Car Parking

The proposed 2(no) on-curtilage car parking spaces for each of the respective 6(no) houses and no visitor parking is consistent with the applicable standard setout for Parking Zone 2 as designated within the CDP. Notwithstanding, the proposal, located within a 'City - Urban Neighbourhoods' location is contrary to specific planning policy SPPR 3 of the recently adopted Guidelines whereby the maximum rate of parking provision and where justified to the satisfaction of the PA shall be 1(no) space per dwelling. Accordingly, I consider that the proposed site layout and extent of car parking would, if permitted result in an undesirable layout that is dominated by car parking, and which is contrary to adopted policy set out within ministerial guidelines.

7.2. Road & Traffic Safety

A single shared vehicular and pedestrian access to serve the proposed development is identified via an existing narrow, unsurfaced private laneway which lies outside of the delineated red line (site boundary) and within the delineated blue line (ownership boundary) on the submitted site layout plan. A document entitled 'Landscaping Planning Proposals' which accompanied the application details proposals for the hard landscaping of this laneway, which incorporates a mix of paving types, tarmacadam/asphalt surface and chipping. Pedestrian connectivity within the development and along private laneway is proposed by way of a shared access arrangement with varying pavements.

I submit that in accordance with Design Manual for Urban Roads and Streets 2013 (including updates), an emphasis on placemaking and promoting the multidisciplinary aspects of successful street design within an urban area must also be considered. The laneway by virtue of its carrying capacity in terms of its width, proposed shared surfacing and established access arrangements onto the laneway, provide for a self-enforcing 30km/h zone. In terms of proposed improvement works to the laneway, I consider and submit that the upgrading of this laneway with a shared space arrangement in accordance with the Design Manual for Urban Roads and Streets 2013 (including updates) is consistent with policy objective PHP40 Shared Space Layouts of the CDP *'to promote safer and more attractive streets and public realm for all road users throughout the County by proactively engaging with, and adhering to, the 'shared space' concept and guidance set out in the 'Design Manual for Urban Roads and Streets' (2013), will improve traffic safety for existing and future users and is therefore satisfactory in principle, subject to approval on detailed design.*

The Board will note that roads and traffic safety matters were not raised within the PA's decision to refuse permission. However, the matter of restricted sightlines was raised within observations received and I note that further details on sightlines were similarly sought by the PA's Transportation Section. Accordingly, I wish to highlight that the existing trafficked laneway is already established off Ulverton Road, where a speed limit of 50kph applies. In this context, whilst I acknowledge that sightlines are somewhat restricted and given that current guidelines on reducing car parking provision apply, I do not consider that the additional traffic movements potentially generated by this development will be such that it would warrant grounds for refusal.

In the event that the Board is minded to grant permission, a condition should be attached requiring the submission of an operational management plan which sets out details of the long-term management and maintenance of the scheme (including shared space laneway) and address provisions made for the storage and collection of waste materials.

7.3. Procedural/Legal

A number of procedural matters were raised in the observations received with respect to the validity of the erected site notice, legal interest associated with private laneway and its delineation outside of redline boundary and inaccurate details provided on submitted drawings. Notwithstanding, I am satisfied that these matters did not prevent concerned parties from making representations. I note that according to records available (notably Land Direct), that this site and the serving laneway remain unregistered and wish to highlight that in the event that the Board is minded to grant permission, that the applicant shall not be entitled solely by reason of a permission under this section to carry out any development (Section 34(13) of the Planning and Development Act 2000 (as amended)).

Furthermore, in reference to failures to comply with previous planning permission associated with private laneway and adjoining boathouse, I consider that such works fall outside of the Board's remit in deciding this application.

I also seek to highlight that matters raised by Irish Water regarding confirmation of water/wastewater connections and compliance with Part V legislative requirements remain outstanding and can be addressed by way of condition should the Board decide to grant permission.

This assessment represents my de novo consideration of all planning issues material to the proposed development.

Appropriate Assessment

The nearest European designated sites are Dalkey Islands Special Protection Area (Site Code 004172) located approximately 700 metres SE, Rockabill to Dalkey Island Special Area of Conservation (Site Code 003000) located approximately 1 kilometre east and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code 004024) located approximately 3.2 kilometres NW of the site. Taking into consideration the nature, extent and scope of the proposed development, separation distance to the nearest European sites and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, 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.

8.0 Recommendation

I recommend that planning permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the configuration of the site and to its site context, in a 'City - Urban Neighbourhoods' area as designated within the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (2024), it is considered that the proposed development is substandard in overall form and layout, in particular, by virtue of the design, scale and separation distances of House 2 and House 7 to adjoining residential properties and due to the overall extent and dominance of car parking within the overall development.

Accordingly, to permit the development as proposed would be injurious to the residential amenities of adjoining property, and would therefore be contrary to zoning objective A of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, attached to this site which seeks to '*provide residential development and improve residential amenity while protecting the existing residential amenities*', would be contrary to Ministerial Guidelines 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (2024) and would be contrary to the proper planning and sustainable development of the area.

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

Paula Harlon
Planning Inspector
15 January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	315065-22		
Proposed Development Summary	Construction of 6 houses including boundary treatment, access roads and driveways, connections to mains sewer and water including ancillary works		
Development Address	Southwinds", Ulverton Road, Dalkey, Co. Dublin		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	
			No EIAR or Preliminary Examination required
Yes	X	Class 10 (Infrastructure Projects)	
			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	315065	
Proposed Development Summary	Construction of 6 houses including boundary treatment, access roads and driveways, connections to mains sewer and water including ancillary works	
Development Address	"Southwinds", Ulverton Road, Dalkey, Co. Dublin	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is backland and infill in nature and is located in an urban area. The site is zoned for residential use. The proposed development is not exceptional in the context of existing environment.</p> <p>The proposed development will not result in the production of any significant waste, emissions or pollutants.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing</p>	<p>No. The site area is 0.226 ha.</p> <p>There are no other developments under construction in proximity to the site. All other developments are established uses.</p>	No

and/or permitted projects?		
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>No.</p> <p>The proposed development is not located on or within proximity to any designated natura 2000 sites or any designated NHA/pNHA.</p> <p>The nearest European designated sites are Dalkey Islands Special Protection Area (Site Code 004172) c.700 metres SE, Rockabill to Dalkey Island Special Area of Conservation (Site Code 003000) c1 kilometre east and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code 004024) c.2 kilometres NW of the site. Taking into consideration the nature, extent and scope of the proposed development, separation distance to the nearest European sites and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, 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.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	No
<p>• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)