



An
Bord
Pleanála

Inspector's Report

ABP-318029-23

Development	Construction of a house
Location	Site of c. 0.0844 hectares at Bayview Cottage, 45B Pigeon House Road, Ringsend, Dublin 4, D04 P6K1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	5217/22
Applicant(s)	Paddy Stephens
Type of Application	Planning Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Pigeon House Road Residents
Observer(s)	N/A
Date of Site Inspection	5 th March 2024
Inspector	Conor Crowther

1.0 Site Location and Description

- 1.1.1. The site is situated within a garden area to the front of no. 45B Pigeon House Road (Bayview Cottage), which is a single storey pitched roof bungalow dwelling with a single storey flat roof extension to the side and a perpendicular single storey extension to the rear characterised by a pitched corrugated roof. The site area measures approximately 773m² and is accessed via a narrow laneway approximately 60m in length from Pigeon House Road which is included within the red line boundary of the site. The site is situated to the rear of no.49-51 Pigeon House Road whose elevations front onto Pigeon House Road itself. The site is located approximately 2.9km east of Dublin City Centre, within the Local Authority area of Dublin City Council.
- 1.1.2. The site is bounded to the north by the rear gardens of nos.49-51 Pigeon House Road, to the south by the existing single storey bungalow dwelling at 45B Pigeon House Road (Bayview Cottage), to the west by 45A Pigeon House Road (Cois Cuan) and to the east by communal allotments. The surrounding area is predominantly suburban in nature, set within an urban area given the proximity to the city centre. Ringsend Park amenity area lies to the south and Dublin Port to the north of the proposed development.
- 1.1.3. I note that the red line boundary of the site was altered at Further Information stage to include lands to the west of the original red line boundary within the curtilage and ownership of the residents of 45A Pigeon House Road. This alteration to the red line boundary was undertaken to facilitate proposed improvement works to the access laneway and a drainage connection via Ringsend Park.

2.0 Proposed Development

- 2.1.1. The proposed development is described as follows:
- Construction of 1 no. 2 bed part single storey part two storey detached dwelling to the front of (Bayview Cottage), no. 45B Pigeon House Road.
 - Demolition of a small shed onsite.
 - Provision of 2 no. car parking spaces and creation of new vehicular entrance from shared access laneway.

- Provision of private open space, drainage and hard & soft landscaping.

2.1.2. It should be noted that the proposal was altered at Further Information (FI) stage to include the reduction of car parking associated with the proposed development to 1 no. parking space, a new 150mm connection to the combined sewer in Ringsend Park in place of the original drainage layout, expand the redline boundary to allow for additional works included as part of the response to FI.

2.1.3. The application is accompanied by:

- Pre-Planning Application to Dublin City Council.
- Tree Constraints Plan.
- Drainage Layout Plan.
- Letters of Consent from neighbouring landowners.
- Environmental Services Report (including preliminary Flood Risk Assessment).
- Arboricultural Assessment.
- Planning Report.
- Appropriate Assessment Screening.
- Landscape Plan (FI).
- Planting Plan (FI).
- Topographic Survey (FI).
- Swept Path Analysis (FI).
- Preliminary Construction Management Plan (FI).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council (The Planning Authority) issued a FURTHER INFORMATION request on the 17th January 2023 relating to landscaping, the wider proposed development extent, access and transportation issues. The Planning Authority

subsequently issued a GRANT of permission for the above-described proposed development on the 23rd August 2023, subject to 10 no. conditions. Conditions of note include:

- Condition 4(a) requiring submission and agreement of a lighting proposal for the privately managed access laneway prior to the completion of the permitted development.
- Condition 4(c) resurfacing of the full length of the access laneway shall be completed prior to the occupation of the proposed development.
- Condition 8 ensures safeguarding of future national road network requirements due to the close proximity of the proposed Dublin Eastern Bypass Corridor Protection Study Sector A: Dublin Tunnel to Sandymount Strand.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officer's report dated 16th January 2023 requested FI on 3 items.

3.2.3. The Planning Officer's report concluded that the principle of development was acceptable, the standard of private open space was considered to be acceptable, along with the design and finishes of the dwelling. The layout of the proposed dwelling was considered to be in keeping with the pattern of development in the area. The Planning Officer noted that the proposed development provides for generous separation distances to surrounding dwellings and would not lead to overlooking, overshadowing or overbearing of neighbouring properties. The density, plot ratio and site coverage of the proposed development was also considered to be acceptable given the location of the site within a Strategic Development Regeneration Area. The Planning Officer noted the contestations relating to the private combined drain connection and concluded that this can be dealt with by way of planning condition. Notwithstanding this, the planning officer sought FI on the above items.

- 3.2.4. On the 5th July 2023 an extension of time to allow for a response to the further information request was granted by the planning authority, upon request by the applicant.
- 3.2.5. The Planning Officer's Report dated the 24th August 2023 considered the response to the FI request to be satisfactory and recommended a grant of planning permission, subject to conditions.
- 3.2.6. Other Technical Reports
- 3.2.7. Transportation – Following analysis of submitted FI documentation, on the 15th August 2023, the Transportation Department issued a report citing no objection to the proposed development, subject to 5 no. conditions.
- 3.2.8. Drainage – Following analysis of submitted FI documentation, on the 11th August 2023 the Drainage Department issued a report citing no objections to the proposed development, subject to a number of considerations.

3.3. Prescribed Bodies

- 3.3.1. Irish Water/Uisce Eireann – no response received.
- 3.3.2. TII - The site lies within the area of the Section 49 Luas Red Line Docklands Extension (C1 Line) Contribution Scheme. If the development is not exempt, a Section 49 Contribution should be added. Advises that careful consideration should be had of the Dublin Eastern Bypass Corridor Protection Sector A: Dublin Tunnel to Sandymount Strand, a future road scheme proximate to the proposed development.

3.4. Third Party Observations

- 3.4.1. 4 no. 3rd party observations were received in response to the original application submitted to the Planning Authority. The issues raised by observers are mostly covered in the grounds of appeal and also raise the following:
- There is no indication of how the use of the access laneway by the residents of nos.47-51 Pigeon House Road would be protected during construction and operation of the proposed development.

- The proposed development, if granted, in combination with other proposed developments along the access laneway will lead to over-intensification of the use of the laneway.
- The proposed development represents overdevelopment of the site.
- The proposed drainage arrangements are unworkable as the appellants have withdrawn their consent for use of a private shared drain.
- Parking space dimensions are insufficient to cater for the needs of persons with a disability.
- The proposed development is potentially speculative.

4.0 Planning History

Wider Subject Site:

- 4.1.1. 0293/21 - Pre-app discussions held with Dublin City Council for the proposed development of 1 no. dwelling.
- 4.1.2. 5112/22 (ABP Ref. 318030-23) – Demolition of existing dwelling at Bayview Cottage, 45B Pigeon House Road, construction of a detached, 3-bedroom single storey dwelling (131.60sq.m.) together with 10 no. associated roof lights, provision of 1 no. parking space granted permission by the Planning Authority, subject to 3rd party appeal to the Board (This is a separate application subject to a concurrent appeal).
- 4.1.3. 5180/22 (ABP Ref. 317983-23) - 2 detached houses with on site car parking and associated site works in existing garden at 45A Pigeon House Road granted permission by the Planning Authority, subject to 3rd party appeal to the Board (This is a separate application subject to a concurrent appeal).
- 4.1.4. 4110/15 - Permission GRANTED on the 10th March 2016 for single storey extension to the side of the existing dwelling with first floor roof terrace, new windows at first floor level and new boundary walls including new driveway gates at 45A Pigeon House Road (Cois Cuan).
- 4.1.5. 2675/97 - Permission GRANTED on the 10th February 1998 for construction of a two-storey dwelling and consolidation of part of existing boundary walls on a site

within the curtilage of Bayview Cottage. This permission was implemented and comprises the dwelling known as 'Cois Cuan'.

Neighbouring Sites of relevance:

- 4.1.6. ABP 317679-23 - Ringsend to City Centre Core Bus Corridor Scheme (BusConnects Scheme). This application is being considered by the Board at the time of writing.
- 4.1.7. WEB1248/22 – Permission GRANTED on the 27th June 2022 for new pedestrian access gate at no. 48 Pigeon House Road and new boundary railing between adjoining properties no. 48 and no. 47 Pigeon House Road.

5.0 Policy Context

5.1. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2023

- 5.1.1. These recently adopted ministerial guidelines serve to implement the principles of sustainable residential development in urban areas. The guidelines encourage the following approaches:
 - Residential densities in the range of 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin.
 - The quantum of car parking in new developments should be minimised in order to manage travel demand and to ensure that vehicular movement does not impede active modes of travel or have undue prominence within the public realm.
 - SPPR 1 – Separation Distances – ‘It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level’.
 - SPPR 2 – This SPPR sets minimum private open space standards as follows:
 - 2 bed house 30 sq.m

- Policy and Objective 5.1 - Public Open Space – ‘In some circumstances a planning authority might decide to set aside (in part or whole) the public open space requirement arising under the development plan..... In such circumstances, the planning authority may seek a financial contribution within the terms of Section 48 of the Planning and Development Act 2000 (as amended) in lieu of provision within an application site’.
- SPPR 3 - Car Parking – ‘In city centres and urban neighbourhoods of the five cities....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’.
- Section 5.2.5 - Bicycle Parking and Storage - ‘In areas of high and medium accessibility, planning authorities must ensure that new residential developments have high quality cycle parking and cycle storage facilities for both residents and visitors’.
- SPPR 4 - Cycle Parking and Storage – ‘All new housing schemes (including mixed-use schemes that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors.
- ‘Planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases. It should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise, and planning authorities may apply a level of discretion in this regard’.

5.2. Dublin City Development Plan 2022-2028

5.2.1. The following are policies and objectives of relevance to the proposed development from the Dublin City Development Plan:

- Zoning Objective Z1 (Sustainable Residential Neighbourhoods) – ‘To protect, provide and improve residential amenity’.

- Zoning Objective Z2 (Residential Neighbourhoods – Conservation Areas) – ‘To protect and/or improve the amenities of residential conservation areas’. This covers lands to the north of the site traversed by the shared access laneway.
- Section 13.8 - Strategic Regeneration Development Area 6 - Docklands - including SDZ area and Poolbeg West – encourages the expansion of the population and integration of residents and communities.
- The following policies of the Development Plan are relevant to the proposed development:
 - Policy SC12 – Housing Mix.
 - Policy QHSN6 – Urban Consolidation.
 - Policy SI15 - Site-Specific Flood Risk Assessment
 - Policy GI41 - Protect Existing Trees as Part of New Development
- Section 15.8.6 requires a minimum of 10% of the overall site area to be allocated for public open space in residential developments within zoning Z1. However, a financial contribution can be sought in lieu of this.
- Section 15.13.4 states that applications for backland housing should consider the following:
 - Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
 - Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
 - That safe and secure access for car parking and service and maintenance vehicles is provided.
 - The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
 - The impacts on either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.

- The materials and finishes proposed with regard to existing character of the area.

Piecemeal backland development with multiple vehicular access points is not encouraged. Where multiple backland developments are proposed within close proximity, amalgamation will be encouraged to provide for a more comprehensive backland development.

- Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City) – Given that the site is located outside the canal belt the following standards apply:
 - Density range of 60-120 units per ha.
 - An indicative plot ratio range of 1-2.5.
 - A site coverage range of 45-60%. Higher ratios can be applied under certain circumstances.

5.3. Natural Heritage Designations

5.3.1. The following sites are located in the surrounding area of the proposed development:

Proposed Natural Heritage Area (pNHA):

- Grand Canal (002104) – approx. 817m
- South Dublin Bay (000210) - approx. 823m
- North Dublin Bay (000206) - approx. 1.3km
- Dolphins, Dublin Docks (000201) - approx. 1.41km
- Royal Canal (002103) – approx. 1.56km

Special Protection Area (SPA):

- South Dublin Bay and River Tolka Estuary (004024) – approx. 837m
- North Bull Island (004006) - approx. 3.5km
- North-West Irish Sea (004236) – approx. 4.6km

Special Area of Conservation (SAC):

- South Dublin Bay (000210) – approx. 818m

- North Dublin Bay (000206) - approx. 3.5km

5.4. EIA Screening

- 5.4.1. Having regard to the limited nature and scale of the proposed development, and the location of the site within a serviced urban area at a remove from areas of environmental sensitivity, 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 stage (see Appendix 2) and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A 3rd party appeal was submitted by Pigeon House Road Residents on the 14th September 2023 opposing the decision of the Planning Authority to GRANT permission. Pigeon House Road Residents consists of the following appellants:

- Audrey O'Connor & Anthony Gleeson, 46 Pigeon House Road.
- Georgina Scally & Laurance Nesbitt, 47 Pigeon House Road.
- Colm & Harriet Hughes, 48 Pigeon House Road.
- Gráinne Hughes & Alan Coffey, 49 Pigeon House Road.
- Tania Banotti, 50 Pigeon House Road.
- Jacinta & Greta Murphy, 51 Pigeon House Road
- Vicky & Liam Bannable, 137 Ringsend Park.

- 6.1.2. The grounds of appeal are summarised as follows:

- The occupants of nos.46-51 Pigeon House Road have a right of way over a portion of the access laneway between nos.48 & 49 Pigeon House Road.
- The owners of the houses adjoining the access laneway will not consent to any use of their property (including affixing of any materials) during the construction process.

- The proposed access laneway is wholly inadequate.
- No footpath is provided as part of the access which would result in a conflict between road users.
- The proposed development will result in overspill parking and obstruction.
- The proposed development will set an undesirable precedent.
- Not in compliance with provisions of the Development Plan with regard to safe vehicular access and backland development.
- The applicant has not assessed the potential for the proposed development to structurally damage existing neighbouring dwellings. A structural assessment of adjoining properties on Pigeon House Road undertaken by Barrett Mahony Consulting Engineers on behalf of the appellants is submitted which shows existing structural concerns with adjoining properties which are likely to be exacerbated by the proposed development.
- Unclear whether the applicant has sufficient control of the lane to carry out any relevant remedial works.
- The proposed development will lead to significant negative impacts on the residential amenity of existing neighbouring dwellings due to loss of privacy, overlooking, loss of visual amenity, loss of sunlight, traffic hazard and light pollution.
- The applicant's swept path analysis of the accessibility of the site for an ambulance is not reflective of the true width of an ambulance.
- The proposed development contravenes the Building Regulations with regard to access for fire services.
- The construction traffic management plan does not allow for access to the site of heavy construction vehicles and is not reflective of the existing road network.
- No traffic safety or quality audit of the access laneway has been submitted by the applicant.

- The applicant has indicated that the most restricted part of the access laneway lies outside the control of the applicant. This is a determining factor in assessing the accessibility of the site for emergency vehicles.
- The existing dwellings along Pigeon House Road are constructed on reclaimed land consisting of fine sand. This has not been assessed by the applicant.
- Lighting along the access laneway would have a detrimental impact on the residential amenities of existing residents.
- Ownership of the access laneway is contested by the residents of no.46-51 Pigeon House Road who are not in agreement to a variation of any of their rights in this respect.
- The proposed development does not integrate with the established pattern of development in the area.
- The proposed development does not include any assessment of daylight and sunlight on surrounding properties and the proposed dwelling itself. In particular the proposed developments to the immediate west and south have not been considered in this regard.
- Little detail has been provided about the materials and finishes to the proposed development.
- The proposed development will lead to the loss of a large number of trees and shrubs onsite.
- The proposed development will be oppressive and overbearing.
- The proposed development includes the construction of 1 no. dwelling spanning the length of a terrace of houses.
- Consent is withdrawn to permit connection to the private drain running through the access laneway, as the applicant misled the appellants with regard to the nature of the proposed development.

6.2. Applicant Response

6.2.1. The response of the applicant to the grounds of appeal can be summarised as follows:

- Access concerns for emergency, refuse, service and delivery vehicles have been raised and dealt with at FI stage.
- There is a precedent for use of the laneway to access residential properties and the proposed development only serves to add 1 no. additional property to this access.
- The appellant's agent does not appear to have the relevant engineering expertise to comment in detail on points relating to fire tender access, ambulance vehicle size and swept path analysis.
- The appellant's understanding of the Building Regulations appears to be outside of the realm of their expertise.
- The appellant's submission relating to the width of the access laneway is not supported by a professional survey.
- The downpipe referred to by the appellant is not located at the narrowest point of the laneway.
- The consulting engineers employed by the appellants in support of their original submission to the Planning Authority do not appear to have undertaken a survey of the site or a site visit.
- The proposed works to the access laneway are considered to be an improvement to the existing laneway conditions.
- Significant vehicular movements are not anticipated as part of the proposed development.
- There is no evidence presented by the appellant to suggest that structural damage to their properties has been caused by use of the laneway.
- Additional operational traffic as a result of the proposed development and in combination with other proposed development will be modest.

- The preliminary Construction Management Plan submitted does not identify any critical issues that would arise from the proposed development in terms of impact on neighbouring properties.
- It is illogical to apply DMURS standards to an existing private road which is not a street. DMURS acknowledges that it cannot always be applied, particularly to existing streets.
- Addressing construction issues post planning is extremely common and perfectly logical considering the expertise of a building contractor is typically only available post grant of planning permission.
- The Planning Authority is the final adjudicator on lighting proposals and can opt to take enforcement action if agreed proposals are not implemented correctly.
- The proposed development has been designed to work either in tandem with other adjacent proposed developments or on an individual basis. It is noted that the proposed development has been considered jointly with adjacent proposed developments by the Planning Authority.
- The Planning Authority did not consider the proposed development to be overbearing or impactful on neighbouring buildings and did not consider the scale and overall design of the building to be an issue.
- The proposed development will not impact on daylight and sunlight to neighbouring properties and will not overlook surrounding properties.

6.3. Planning Authority Response

6.3.1. The Planning Authority requests that the Board upholds the decision of the Planning Authority to grant permission. In the event of a grant of permission, the Planning Authority request that the following conditions be applied:

- A Section 48 contribution condition.
- A Section 49 Luas C1 contribution condition.
- A naming & numbering condition.

6.4. Observations

6.4.1. None received.

7.0 Assessment

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Access & Car Parking
- Residential Amenity
- Design & Layout
- Landscaping & Tree Removal
- Drainage
- Cumulative Development
- Compliance with Development Plan provisions
- Other Matters

7.2. Access & Car Parking

7.2.1. The appellants have identified issues with the use of the existing access laneway for access to the site of the proposed development. Notwithstanding the fact that the proposed development for a single dwelling will not significantly increase vehicular use of the access laneway, the appellants are concerned with the proposed use of the access laneway for the construction of the proposed development and the accessibility of the site, via the access laneway, for emergency vehicles. Of particular concern to the appellants is the width of the existing access laneway which they claim is too narrow to facilitate accessibility to the site for emergency service vehicles and heavy construction vehicles. The appellants have also expressed concern with existing and potentially future structural issues to the sidewalls of nos.48-49 Pigeon House Road, which border the existing access laneway, and they

claim that existing structural issues have been caused by overuse of the access laneway.

- 7.2.2. The 1st party contests that all transport and access issues have been substantially addressed at FI stage, and that improvement works to the southern portion of the access laneway are proposed as a result of this. The Planning Authority considered the proposed improvement works to be acceptable and did not object to proposed development on the grounds of the unsuitability of the existing access laneway.
- 7.2.3. Having examined the access laneway on my site visit and having measured the width of the access laneway at its narrowest point, I am in agreement with the applicant that the access laneway is approximately 2.3m wide at its narrowest point, when taking account of existing downpipes fronting onto the access laneway. This allows for accessibility to the site for an ambulance, as demonstrated in the swept path analysis submitted at FI stage. I note that the access laneway does not allow for access to the site for fire service vehicles or similar heavy goods vehicles. I am satisfied with the applicant's commitment to provide a new fire hydrant within the area of the upgraded laneway adjacent to the proposed development, thereby addressing fire safety concerns. Although the applicant has not detailed the exact location of said fire hydrant on a drawing, I am satisfied that this can be addressed by way of planning condition, in the event of a grant of planning permission.
- 7.2.4. With regard to the construction of the proposed development and the potential impact this may have on the access laneway, I note that the applicant provided a preliminary Construction Management Plan at FI stage. This plan has regard to the three concurrent appeals at this location. The contents of this plan serve to acknowledge existing structural issues to structures bordering the access laneway and proposes measures to avoid potential structural impacts in this regard, including use of specific vehicle types. Having regard to the contents of the Construction Management Plan submitted by the applicant and the structural concerns of the appellants, I consider the measures proposed to be reasonable. I also note that the Construction Management Plan proposes the use of lands within the public domain adjacent to Pigeon House roadway as set down areas and the construction traffic route along Pigeon House Road is currently blocked to through traffic, albeit with moveable bollards. In the event of a grant of planning permission, this would need to

be addressed by way of planning condition requiring agreement with the Planning Authority prior to commencement of development.

7.2.5. I note that the shared access laneway does not currently benefit from lighting which would inhibit visibility and accessibility in times of darkness due to the confined nature of the laneway. The proposed development provides an opportunity to address the issue of lighting along the shared access laneway, however, the appellants have explicitly stated that they will not agree to the affixing of any structures to their property bordering the shared access laneway. This limits the lighting potential of the laneway to beyond the narrowest point of the laneway, and I believe that an acceptable lighting solution can be implemented beyond this point in the laneway, in the event of a grant of planning permission. Subject to downward facing low level lighting being provided, I don't consider that undue impacts on residential amenity arise in this case. With regard to accessibility, the proposed development also provides an opportunity to address the surface of the shared access laneway which is proliferated by numerous potholes. As such, I am of the view that the full length of the shared access laneway should be resurfaced, prior to the occupation of the development, in the event of a grant of planning permission.

7.2.6. I note that the applicant included 2 no. parking spaces within the proposed development as part of the original application. This was reduced to 1 no. parking space at FI stage, as a result of the Planning Authority's assessment that 2 no. parking spaces would exceed the maximum car parking standards for this area as set out in the Development Plan. Further to this, the Compact Settlement Guidelines encourage the reduction of car parking in such urban locations and suggest a maximum of 1 no. car parking space per dwelling. I therefore consider the reduction of the number of car parking spaces associated with the proposed development to 1 no. car parking space to be both necessary and appropriate given the location of the site within an inner suburban area. I consider that this can be addressed by way of planning condition in the event of a grant of planning permission.

7.3. Residential Amenity

7.3.1. I note that a number of residential amenity concerns were raised by appellants with regard to overlooking, overshadowing and the supposed overbearing nature of the proposed development. The applicant disagreed with the appellants on this matter.

The Planning Authority's assessment concluded that there were no residential amenity concerns in this regard.

- 7.3.2. Having analysed the drawings submitted with the original application and at FI stage, it is apparent that the separation distances between the rear facades of nos.49-51 Pigeon House Road and the proposed development are well in excess of the minimum 16m separation distances set out in the Compact Settlement Guidelines with a minimum separation distance of 18.5m achieved. In addition, no windows are proposed to be facing habitable rooms on this elevation. As such, I do not consider there to be any overlooking concerns with regard to the aforementioned dwellings. This is further supplemented by replacement planting along the northern boundary of the site. Notwithstanding the height of the proposed dwelling (11.14m at its highest point) and the location of said dwelling to the south of nos.49-51 Pigeon House Road, I do not consider that the proposed development will lead to significant overshadowing of the aforementioned dwellings or the rear gardens.
- 7.3.3. Considering that the proposed dwellings in the immediate vicinity to the south and to the west have been designed in a somewhat coordinated manner by landowners acting in concert with each other and considering the general orientation and fenestration of the proposed development, I am satisfied that the proposed development will not significantly impact the residential amenities of the future inhabitants of said dwellings and of the proposed development itself.

7.4. Design & Layout

- 7.4.1. The design and layout of the proposed development has been questioned by the appellants, in that they are of the view that it does not integrate with existing surrounding development. They have also commented on the lack of detail provided by the applicant with regard to materials and finishes. The applicant contends that this was not considered to be an issue by the Planning Authority in their assessment of the proposed development.
- 7.4.2. I am of the view that the L shaped layout of the proposed development aligns with that of the existing and proposed development at Bayview Cottage to the south and serves to adequately reflect existing development within the same plot of land whilst differentiating with the terraced dwellings to the north. This is considered to be an acceptable approach with regard to the layout of the proposed development.

7.4.3. I consider the level of detail provided by the applicant with regard to the materials and finishes of the proposed development to be sufficient to allow for an assessment of its planning merits. In any case, finalised materials and finishes can be submitted and agreed by way of planning condition, in the event of a grant of planning permission. With regard to the proposed materials and finishes themselves, I consider the modern nature of the materials and finishes to be acceptable in the context of surrounding proposed developments and existing surrounding development; including that of the appellants' rear extensions, some of which exhibit similarly modern materials and finishes.

7.5. Landscaping & Tree Removal

7.5.1. Landscaping concerns have been raised by the appellants in the context of both tree and shrubbery removal. In this respect, I note that the applicant submitted a Tree Constraints Plan with the original application, and a Landscape Plan and Planting Plan at FI stage. Having analysed the aforementioned plans, I am satisfied that the proposed development will provide adequate replacement planting in light of the proposed shrubbery and tree removal. In any case, the existing planting is not considered to be of a high value.

7.6. Drainage

7.6.1. I note that foul drainage of the site was originally proposed via a shared drainage pipe along the access laneway, however this was altered by the applicant at FI stage due to the fact that the appellants withdrew their consent for use of the shared drainage pipe. The applicant subsequently proposed to connect to a new 150mm connection to the combined sewer in Ringsend Park, in line with adjacent proposed developments. This required the alteration of the redline boundary at FI stage to facilitate the connection. I consider this proposal to be an acceptable foul drainage solution for the site. Furthermore, the Planning Authority Drainage Department did not object to this proposal.

7.6.2. I consider the surface water drainage proposals comprising of an attenuation tank for roof water and permeable paving to be acceptable. I note that the finished floor levels have been designed to account for climate change related flooding, and I consider this to be an acceptable approach notwithstanding the fact that the site is

not located within an area of flood risk, as identified in the Strategic Flood Risk Assessment included within the Development Plan.

7.7. Cumulative Development

- 7.7.1. I note that the proposed development has come before the Board for consideration within a similar timeframe to 2 other separate planning appeals within the immediate vicinity of the site. Namely, Reg. Ref. 5112/22 (ABP Ref. 318030-23) within the confines of the site of the proposed development and Reg. Ref. 5180/22 (ABP Ref. 317983-23) adjacent to the site. This allows for the cumulative assessment of said proposed developments.
- 7.7.2. Having regard to the substance of the appeals against all 3 proposed developments, the presumption in favour of compact development within urban locations and the measures proposed by the applicant, I do not consider the cumulative development of 3 no. applications within this backland site to be of a nature that significantly impacts the surrounding area.

7.8. Compliance with Development Plan provisions

- 7.8.1. I note that the appellants highlighted the fact that the proposed development is not in compliance with the Development Plan provisions with regard to backland development due to the piecemeal nature of the proposed development. The appellants contend that the proposed development represents piecemeal backland development due to its close association with 2 no. separate planning applications in the immediate surrounds of the site. The 1st party has stated that the proposed development has been considered in tandem with said applications. The Development Plan discourages piecemeal backland development.
- 7.8.2. Considering the fact that the applicant has engaged with the Planning Authority at an early stage, the preliminary Construction Management Plan submitted allows for the potential construction of the proposed development in tandem with the 2 no. separate planning applications in the immediate surrounds of the site and that a combined approach to access and services has been taken with said separate applications, I am satisfied that the applicant has not proposed piecemeal backland development and has demonstrated the ability to construct the proposed development in tandem with said proposals.

- 7.8.3. Considering the above and the preceding assessment of the proposed development, I am satisfied that the proposed development is compliant with Development Plan provisions relating to backland development.

7.9. Other Matters

- 7.9.1. I note that the appellants have questioned the validity of the applicant's ownership of the access laneway and their rights to undertake improvement works to the laneway without providing any documentary or legal evidence to support this. Notwithstanding this, the planning authority assessed the proposed development on the basis that the site boundaries provided were correct. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision by way of provision of consent of the adjoining landowner at 45A Pigeon House Road to include their lands within the application, including their ownership of the shared laneway. Thus, allowing for improvement works to be undertaken along the access laneway such as the instalment of public lighting and resurfacing. In addition, I note that the existing site is accessed via the shared laneway and enjoys a right of way in this respect. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal, and this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

7.10. Appropriate Assessment Screening

- 7.10.1. I note that the application was not accompanied by a screening report for Appropriate Assessment. I note that the Local Authority undertook Appropriate Assessment Screening and concluded that the proposed development would not significantly impact upon a Natura 2000 site.
- 7.10.2. The site is not located within or immediately adjacent to a European Site but is located within approximately 91m of the River Liffey which drains to the South Dublin Bay & River Tolka Estuary Special Protection Area, the North Bull Island Special Protection Area, the North-West Irish Sea Special Protection Area, the South Dublin Bay Special Area of Conservation and the North Dublin Bay Special Area of Conservation, located between approximately 800m and 4.6km from the site, respectively. There is therefore a likelihood that an indirect hydrological pathway

7.10.3. The qualifying interests of the identified European Sites above can be found at the following links:

- 7.10.4. Having regard to the existing nature of the site and the surrounding pattern of urban development and activity, no ongoing ex situ effects on the qualifying interests of European Sites are anticipated, in terms of disturbance or loss of roosting/foraging habitats.

7.10.6. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.10.7. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

7.11. Conclusion

7.11.1. Having regard to the above, I consider the proposed development, as modified at Further Information, would be acceptable and would not give rise to drainage, design, landscaping, overlooking, parking or accessibility concerns. The proposed development, as modified, will positively contribute to the character of the area and allow for the development of a backland site in an accessible area, without negatively impacting existing and future residential amenities. Thus, I conclude that a grant of planning permission should be issued, subject to conditions.

8.0 Recommendation

I recommend that planning permission should be GRANTED, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to nature of the proposed development, the existing access to the site, the proposed drainage measures, the zoning of the site for residential development, the design and layout and the landscaping of the proposed development, it is considered that subject to the conditions set out below, the proposed development would be acceptable and in accordance with the provisions of the Dublin City Development Plan 2022-2028 and the Sustainable Residential Development and Compact Settlements Guidelines. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted in response to a Further Information Request on the 27 th day of July 2023, except as may otherwise be required
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	<p>in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Lighting shall be provided beyond the narrowest point of the shared access laneway in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such low level lighting shall be designed as such to be fixed downwards, shall not be affixed to neighbouring properties and shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety.</p>
3.	<p>The works to the laneway as set out in V005-CSC-00-XX-DR-C-0001, and a resurfacing of the full length of the laneway, shall be completed prior to the occupation of the development.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
4.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interests of sustainable waste management.</p>

5.	<p>The internal road network serving the proposed development shall comply with the detailed standards of the planning authority for such road works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
6.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water and the location of a new fire hydrant, shall comply with the requirements of the planning authority for such works and services and shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
9.	<p>(a) All foul sewage and soiled water shall be discharged to the public foul sewer.</p> <p>(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.</p> <p>Reason: In the interest of public health.</p>
10.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
11.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities; (c) Details of site security fencing and hoardings; (d) Details of on-site car parking facilities for site workers during the course of construction; (e) Details of the nature, timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; (f) Measures to obviate queuing of construction traffic on the adjoining road network; (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; (i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

	<p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
12.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
13.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in</p>

	accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
14.	<p>The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of public open space, which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.</p> <p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.</p>
15.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas C1 Red Line Docklands Extension in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.
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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.

Conor Crowther
Planning Inspector

11th April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318029-23		
Proposed Development Summary	Construction of a house		
Development Address	Site of c. 0.0844 hectares at Bayview Cottage, 45B Pigeon House Road, Ringsend, Dublin 4, D04 P6K1		
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	✓
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	✓	Class 10(b)(i) and (iv)/ min. 500 dwelling units and/or an area greater than 10 ha	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: **Conor Crowther** Date: **11th April 2024**

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318029-23	
Proposed Development Summary	Construction of a house.	
Development Address	Site of c. 0.0844 hectares at Bayview Cottage, 45B Pigeon House Road, Ringsend, Dublin 4, D04 P6K1	
<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>Given the location of the proposed development in an inner suburban area where backland residential development of a similar nature has previously been permitted, I do not regard the nature of the proposed development to be exceptional in the context of the existing environment.</p>	<p>No</p> <p>No</p>
<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</p>	<p>Given the location of the proposed development in an inner suburban area where backland residential development of a similar size has previously been permitted, I do not regard the size of the proposed development to be exceptional in the context of the existing environment.</p> <p>I note that concurrent applications for a similar level of backland development are proposed adjacent to the proposed development. Having</p>	<p>No</p>

regard to other existing and/or permitted projects?	examined the cumulative developments proposed, I do not consider there to be any significant cumulative impacts.	No
<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>I note the proximity of the River Liffey, which discharges to Dublin Bay, to the proposed development. Given the SuDS measures proposed as part of the proposed development and the existing services in the area, I am satisfied that the proposed development will not significantly impact on the River Liffey.</p>	<p>No</p> <p>No</p>
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p>Yes</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p> <p>No</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p> <p>No</p>

Inspector: _____

Date: _____

DP/ADP:

Date:

(only where Schedule 7A information or EIAR required)