



An
Bord
Pleanála

Inspector's Report

ABP-318030-23

Development	The demolition of the existing dwelling and shed and the construction of a detached 3-bedroom single storey dwelling and all associated site works.
Location	Bayview Cottage, 45B Pigeon House Road, Ringsend, Dublin 4, D04 P6K1.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	5112/22
Applicant(s)	Paddy Stephens
Type of Application	Planning Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Tania Banotti & Gráinne Hughes
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 consists of 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 at no.45B Pigeon House Road (Bayview Cottage). The site area measures approximately 773m² and is accessed via a narrow laneway approximately 60m in length from Pigeon House Road. 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 Ringsend Park amenity area, to the west by the existing part two storey, part single storey dwelling at Cois Cuan 45A Pigeon House Road 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.

2.0 Proposed Development

- 2.1.1. The proposed development is described as follows:
- Demolition of the existing dwelling and the existing shed.
 - Construction of 1 no. 3 bed single storey (131.60sq.m) detached dwelling at Bayview Cottage together with 10 no. associated rooflights.
 - All associated boundary treatments, landscaping and site works including provision of 1 no. parking space.
- 2.1.2. It should be noted that the proposal was altered at Further Information (FI) stage to amend the drainage layout to align with that of the drainage layout proposed for the surrounding applications being considered concurrent to this application. This resulted in the amending of the redline boundary to facilitate works to access the 150mm connection to the combined sewer in Ringsend Park. The redline boundary was also amended to facilitate improvement works to the access laneway included as part of the response to FI.

2.1.3. The application is accompanied by:

- Pre-Planning Application to Dublin City Council.
- Artistic Impression.
- Environmental Services Report (including Flood Risk Assessment).
- Schedule of Structural Condition Report (FI).
- Swept Path Analysis (FI).
- Topographic Survey (FI).
- Letters of consent from inhabitants of no.45A Pigeon House Road (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 13th December 2023 relating to the demolition of the existing dwelling and access and transport issues. The Planning Authority subsequently issued a GRANT of permission for the above-described proposed development on the 23rd August 2023, subject to 7 no. conditions. Conditions of note include:

- Condition 2(a) requiring submission and agreement of a lighting proposal for the privately managed access laneway prior to the completion of the permitted development.
- Condition 2(c) resurfacing of the full length of the access laneway shall be completed prior to the occupation of the proposed development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officer's Report dated 13th December 2023 requested FI on 2 items.

3.2.3. The Planning Officer's report concluded that the standard of private open space was acceptable, along with the layout of the dwelling. The design and finishes of the

proposed dwelling were considered to be in keeping with the pattern of development in the area. The Planning Officer noted that the proposed development would not lead to overlooking, overshadowing or overbearing of neighbouring properties. Notwithstanding this, the planning officer sought FI on the above items.

- 3.2.4. On the 14th June 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 23rd August 2023 determined that the applicant had sufficiently demonstrated that the existing property is in disrepair, is uninhabitable and unsuitable for reuse. It was also determined that the proposed laneway improvements should not impact on the secondary pedestrian rear access to nos. 47 and 48 Pigeon House Road, that a lighting proposal for the laneway should be submitted prior to commencement and that the full length of the laneway should be resurfaced. The Planning Officer did not comment on the acceptability of firefighting proposals in line with Building Regulations and considered the contents of the submitted Construction Management Plan to be generally acceptable.
- 3.2.6. Other Technical Reports
- 3.2.7. Transportation – Following analysis of submitted FI documentation, on the 14th 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 – No objection.

3.4. Third Party Observations

- 3.4.1. 2 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:
- The access laneway is approximately 1m wide.
 - 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.
 - 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.

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. 5217/22 (ABP Ref. 318029-23) – Construction of 1 no. two bed part single, part two storey dwelling of circa 238 sq.m gross floorspace to the front (north) of the existing dwelling (Bayview Cottage) on the site, including creation of private open space, 2 no. parking spaces and a new vehicular entrance 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:
 - 3 bed house 40 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 15.7.1 encourages the re-use of existing building materials where demolition is proposed.
- 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 Gráinne Hughes, 49 Pigeon House Road and Tania Banotti, 50 Pigeon House Road on the 14th September 2023 opposing the decision of the Planning Authority to GRANT permission.
- 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.
 - 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 proposed development will set an undesirable precedent.
- 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.
- 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 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.
- The benefit of the proposed development to the applicant must be balanced against the potential negative impact on the adjacent dwellings.
- 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.
- Not in compliance with provisions of the Dublin City Development Plan with regard to safe vehicular access and backland development.
- No traffic safety or quality audit of the access laneway has been submitted by the applicant.

- A comprehensive assessment of the cumulative effects of all 3 no. planning applications utilising the access laneway should be undertaken by the applicant.

6.2. Applicant Response

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

- The grounds of appeal are largely identical to the grounds of appeal for Reg. Ref. 5217/22 (ABP Ref. 318029-23) and are in many cases entirely irrelevant to the subject proposal.
- The appellant's concerns regarding access and transport have been addressed at FI stage.
- The proposed development constitutes a replacement dwelling which will lead to no greater operational impact than the existing dwelling.
- A new precedent is not sought to be established as the access laneway is already in use to access residential properties.
- 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 applicant commits to upgrading the access laneway, as required by the grant of permission issued by the Planning Authority. The applicant aims to ensure that minimal disruption is experienced through any works taking place on the access laneway.

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.

6.3.2. Notwithstanding the above, I note that the Planning Authority decision contained no financial contribution conditions.

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:

- Transport & Access
- Residential Amenity
- Drainage
- Cumulative Development
- Compliance with Development Plan provisions
- Other Matters

7.2. Transport & Access

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 represents a like-for-like replacement dwelling which will not 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 argues 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 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 be addressed by way of planning condition requiring agreement with the Planning Authority prior to commencement of development.

7.3. 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.

7.4. Residential Amenity

7.4.1. The appellants have raised concerns with the potential for the proposed development to impact on the residential amenity of adjoining dwellings, particularly those adjoining the access laneway. I am satisfied that the residential amenity of adjoining dwellings will not be significantly impacted during the operational stage of the proposed development as it is a replacement dwelling within a similar footprint and will not lead to overlooking. I believe that any concerns arising from the construction of the proposed development can be adequately addressed by way of planning condition, in the event of a grant of planning permission. In this regard, I am of the view that the accessibility of the residents of Pigeon House Road to their rear gardens via the access laneway should not be materially impacted by the proposed development.

7.5. Drainage

- 7.5.1. 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 to the west of the site, in conjunction 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.
- 7.5.2. I consider the surface water drainage proposals comprising of a blue green roof for attenuation of roof water and drainage at a greenfield runoff rate 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.

7.6. Cumulative Development

- 7.6.1. 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. 5217/22 (ABP Ref. 318029-23) 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.
- 7.6.2. 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.

7.7. Compliance with Development Plan provisions

- 7.7.1. 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.

7.7.2. 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.

7.7.3. Considering the above, the preceding assessment of the proposed development, the single storey nature of the proposed development and the design of the proposed development, I am satisfied that the proposed development is compliant with Development Plan provisions relating to backland development.

7.8. Other Matters

7.8.1. The Planning Authority requested a strong justification for the demolition of the existing dwelling at FI stage, in line with the provisions of the previous Development Plan. These provisions have not been brought forward to the current Development Plan and therefore do not apply. Nonetheless, I am satisfied that the applicant has provided sufficient justification for the demolition of the existing dwelling by way of material submitted at FI stage which demonstrates the deterioration of the existing dwelling into a state of disrepair.

7.8.2. 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. I note under ABP Ref. 317983-23, the ownership of the shared access laneway by the owners of 45A Pigeon House Road has been confirmed. 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 dwelling 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.

- 7.8.3. With regard to the applicability of development contributions in accordance with Section 48 of the Planning & Development Act, I note that the proposed development represents a replacement dwelling and the Dublin City Council Development Contribution Scheme 2023-2026 requires such development to be charged on the net additional floor space created.

7.9. Appropriate Assessment Screening

- 7.9.1. 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.
- 7.9.2. 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 may develop between the site and a European Site by means of surface water runoff. This indirect hydrological pathway to a marine environment is considered to be insignificant due to the considerable distance and intervening watercourse between the proposed development and the European Site in question. In addition,

the Construction Management Plan submitted as part of the proposed development includes standard best practice drainage methods which will reduce the level of surface water runoff during operation and construction stages. No additional operational impacts are anticipated due to the nature of the proposed development.

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

- [North Bull Island SPA | National Parks & Wildlife Service \(npws.ie\)](#)
- [North Dublin Bay SAC | National Parks & Wildlife Service \(npws.ie\)](#)
- [South Dublin Bay and River Tolka Estuary SPA | National Parks & Wildlife Service \(npws.ie\)](#)
- [South Dublin Bay SAC | National Parks & Wildlife Service \(npws.ie\)](#)
- [North-west Irish Sea SPA | National Parks & Wildlife Service \(npws.ie\)](#)

7.9.4. 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.

7.9.5. Given the size and scale of the proposed development, the location of the proposed development in an established urban area that is suitably serviced, and the works involved, I am of the view that the proposed development will not lead to a likely significant effect on the qualifying interests of any nearby European Site.

7.9.6. 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.

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

7.10. Conclusion

7.10.1. 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, residential amenity and accessibility concerns. The proposed development, as modified, will positively contribute to the character of the area and allow for the redevelopment of a dwelling in a state of disrepair within 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 use of the site, the existing access to the site, the proposed drainage measures and the zoning of the site for residential 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 in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall
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	<p>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-318030-23			
Proposed Development Summary	The demolition of the existing dwelling and shed and the construction of a detached 3-bedroom single storey dwelling and all associated site works			
Development Address	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		Class.....	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)	Conclusion
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-318030-23	
Proposed Development Summary	The demolition of the existing dwelling and shed and the construction of a detached 3-bedroom single storey dwelling and all associated site works	
Development Address	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>	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>No</p> <p>No</p>
<p 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>