



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318189-23

<b>Development</b>	Single storey house
<b>Location</b>	Rear of 72A,72B,70,70B, 70C, Beaumont Avenue, Dublin 14
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D23A/0490
<b>Applicant(s)</b>	Leah Tracey
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Alan Sullivan & Tara Sullivan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> July 2024
<b>Inspector</b>	Bernadette Quinn

## **1.0 Site Location and Description**

- 1.1. The appeal site is located to the rear of No.'s 70,70B, 70C, 72A,72B Beaumont Avenue in Churchtown and is 'L' shaped with a stated area of 0.068ha. Earls Court, a cul de sac serving Earlsclourt Industrial Estate adjoins the north west boundary of the site, Earlsclourt Industrial Estate is located to the west and single storey dwellings to the north, south and east. High walls define the boundaries to the north, west and south. There are gates on the western boundary into the industrial estate, on the southern boundary to No. 74 Beaumont Avenue, and to the east onto Beaumont Avenue. The site contains a number of commercial vehicles and is otherwise vacant.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the construction of a detached single storey dwelling and vehicular access via an existing access gateway between No. 72 and No. 74 Beaumont Avenue.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 11<sup>th</sup> September 2023, Dun Laoghaire Rathdown County Council issued notification of the decision to grant planning permission subject to 11 conditions of a standard nature.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planning Authority case officer report states that the development would not represent overdevelopment of the site, is acceptable in terms of residential and visual amenity of the area and that issues relating to a right of way are a civil matter and not a planning issue. The report recommends a grant of permission subject to conditions.

### 3.2.2. Other Technical Reports

Transportation Planning: No objection subject to conditions.

Drainage Planning: No objection subject to conditions.

### 3.3. Prescribed Bodies

Irish Water: No objection subject to conditions.

### 3.4. Third Party Observations

- 3.4.1. One third party observation was received objecting to the proposed development. The grounds of objection are similar to those raised in the appeal.

## 4.0 Planning History

### 4.1. Appeal Site:

D22A/0660: Permission refused on 26<sup>th</sup> October 2022 by Dun Laoghaire Rathdown County Council for a detached dormer dwelling for one reason relating to overdevelopment of site and impact on the visual amenities of the area.

V/060/22: Certificate of exemption under Part V granted by Dun Laoghaire Rathdown County Council on 02/09/2022.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Dún Laoghaire Rathdown County Development Plan, 2022-2028 is the statutory development plan for the area. It has regard to national and regional policies in respect of infill development within existing built-up areas.
- 5.1.2. The site is zoned Objective 'A' residential with the objective to: "provide residential development and improve residential amenity while protecting the existing residential amenities" under which residential development is listed within the 'Permitted in

Principle' category of this zoning objective. Land adjoining the site to the west is zoned objective E 'to provide for economic development and employment'.

- 5.1.3. In Chapter 4 Policy Objective PHP19: Existing Housing Stock – Adaptation states that it is a Policy Objective to densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.
- 5.1.4. In Chapter 12 Development Management, Section 12.3.7.6 Backland Development outlines standards relating to height, scale, vehicular access, car parking, open space and separation distances. In relation to vehicular access, this section states that a lane width of 3.7 metres must be provided to the proposed dwelling (3.1 metres at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- 5.1.5. Section 12.3.7.7 in relation to infill development states that in accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units.
- 5.1.6. Section 12.4.8.1 General Specifications requires that vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic and states 'In general, for a single residential dwelling, the maximum width of an entrance is 3.5 metres.

## **5.2. National Planning Guidelines**

- 5.2.1. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

SPPR 2 – Minimum Private Open Space Standards for Houses requires new houses provide a minimum private open space area of 40 sq.m for a 3 bed house. For urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space.

## **5.3. Natural Heritage Designations**

- 5.3.1. None in the vicinity of the site.

## **5.4. EIA Screening**

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

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. One no. third party appeal has been received from Alan Sullivan and Tara Sullivan of 74 Beaumont Avenue located to the south of the appeal site. The grounds of appeal can be summarised as follows:

- Negative impact on the residential amenity of existing dwellings as a result of proximity to boundaries, inadequate separation distances, scale and perception of overlooking and as such is contrary to the zoning objective and sets an undesirable precedent.
- Scale, form and mass of the proposed development results in overdevelopment.
- Failure to comply with Development Plan standards in section 12.7.3.6 of the Development Plan relating to backland development.
- Concerns relating to quantum and orientation of private open space.
- Failure to address previous reasons for refusal on the site and previous concerns of the Transportation Section.
- The proposal restricts the third party's potential for backland development.
- No. 74 Beaumont Ave has a right of way to pass over the laneway within the appeal site which contains an access gate to the rear garden of No. 74. There are concerns that the proposal will impede access via the right of way during construction and following completion and the Planning Authority has failed to assess the proposed development in the context of the right of way.

- Proposal, due to loss of right of way access to rear garden of No. 74 and reduced amenity will result in a reduction in value of No. 74.
- The proposal will create a traffic hazard due to the restrictive nature of the access and restrictive sightlines.
- The access laneway appears to be narrower than indicated on drawings. Inward opening gates further reduce the available width and adequate width for emergency vehicles has not been demonstrated.
- The proposal results in a traffic hazard due to inadequate width of the vehicular entrance and proximity to the junction providing access to the business park.
- The site plan incorrectly shows No. 74 as it fails to show a rear extension and incorrectly shows a shed across the rear boundary.
- Condition no. 3 attached to the grant of permission contains an error relating to site access.

## 6.2. Applicant Response

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

- The proposed residential use is a more appropriate use of the site than the existing commercial use in terms of impacts on neighbours.
- The entrance to the business park from the appeal site is to be removed thereby removing commercial traffic to/from the site.
- The proposal complies with the zoning objective and national, regional and local policy and guidelines.
- The current proposal addresses the previous reason for refusal and previous concerns of third parties.
- The single storey design, setback and positioning to the north of the third party's house avoids impacts of overlooking and overshadowing. The proposed design is acceptable in terms of visual impact.

- Claims relating to a right of way are unsubstantiated and no right of way exists on land registry records for the appeal site and such matters are a civil matter outside of the planning application process. An existing gate on the boundary between the appeal site and No. 74 does not confirm the existence of a right of way.
- Adequate sightlines of a minimum of 49m are available, an existing speed ramp is located on the road close to the entrance and planting on the boundary is a shared hedge.
- The third party does not have sufficient interest to raise appeal grounds in relation to other properties.
- The laneway and entrance are correctly measured on drawings.
- Any visual impact arising from the proposed development will be negligible.
- Private open space will achieve sunlight in accordance with BRE guidelines.

### 6.3. **Planning Authority Response**

The response received can be summarised as follows:

- Acknowledges the reference to Vale View Lawn in Condition No. 3 is an error and provides revised wording for condition No. 3 in relation to construction traffic which seeks to avoid undue pedestrian/traffic hazard during construction.

### 6.4. **Observations**

None

## 7.0 **Assessment**

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, 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:

- Design and Layout
- Traffic
- Other issues

## **7.2. Design and Layout**

- 7.2.1. The proposed development provides for a detached single storey dwelling with a ridge height of 5.386m, a floor area of 168 sq.m. and a rear garden of 84.5 sq.m. The height of the proposed dwelling is in line with the height of existing dwellings to the east on Beaumont Ave. A separation distance of 1.19m is proposed between the proposed dwelling and the northeast boundary. The closest dwellings are located between 10.2m and 11.8m to the east at 70 and 72a and 72b Beaumont Ave. The rear of No. 74 is approximately 13m to the southeast at its closest point.
- 7.2.2. The appeal raises concerns in relation to the scale, massing, positioning on site and proximity to boundaries and resulting impacts on neighbouring properties including in relation to overlooking, overbearing and overshadowing. Having regard to the pattern of development in the vicinity of the appeal site and to the design of the proposed dwelling, I consider the height, scale and massing of the dwelling is in keeping with existing dwellings in the vicinity of the site and that adequate distance from site boundaries are provided for. I am satisfied that the development is appropriate for this infill site and will not give rise to undue impacts on the residential and visual amenities of surrounding properties. I do not share the concerns of the first party that granting permission for the proposed development will result in overdevelopment, noting the size of the site, the nature and scale of existing development, and the design, layout and level of open space provision of the proposed development.
- 7.2.3. I acknowledge that a new building line will be formed as raised by the third party. Having regard to the configuration of the site and its backland nature I consider this acceptable and will not result in negative impacts on the visual amenity of the area. Given the characteristic of the site I do not consider it will create an undesirable precedent for future development.
- 7.2.4. In relation to overlooking, having regard to the single storey nature of the proposed development and the existing high boundary walls, I am satisfied that the proposal will not result in an unacceptable level of overlooking.



- 7.2.5. I note that the extent of private open space proposed exceeds the standards in the Development Plan and in the Compact Settlements Guidelines and I am satisfied that it is sufficient to provide for adequate amenity for future occupants of the dwelling.
- 7.2.6. I am satisfied that the proposed development will not result in an unacceptable impact on the visual or residential amenities of the area and that the development complies with the criteria set out in Section 12.3.7.6 and Section 12.3.7.7 of the Development Plan relating to backland and infill development. I also conclude on this basis that the development does not contravene the zoning objective of the site in relation to protection of existing residential amenity.

### **7.3. Traffic Safety**

- 7.3.1. The existing access from the site to Beaumont Avenue is proposed to serve the development. The site layout plan indicates that sightlines of 49m are available in both directions and that a speed limit of 50kph applies. I note that an internal report from the Transport Section has no objection to the proposed development, subject to conditions. Having visited the site and reviewed the drawings submitted I am satisfied that the available sightlines are adequate to serve the proposed development, that the vehicular entrance to serve the proposed development is in keeping with the pattern of development along this road and I do not share the concerns of the third party in relation to proximity to the junction with Earls Court.
- 7.3.2. The dwelling is proposed to be served by an existing access lane which is indicated on drawings as measuring 3.75m in width and with an entrance width of 3.3m. The internal report from the Transport Section noted that the measurements comply with the requirements of the Development Plan in relation to backland development and raised no objections. I note the concerns of the third party in relation to pinch points in the form of pillars along the laneway, however I consider these unlikely to restrict the width of the access to such an extent as to prohibit vehicular access for one dwelling and I am satisfied that the access proposed is adequate to serve the development.
- 7.3.3. In relation to third party concerns that issues raised in the Transportation Section report relating to a previous planning application on this site have not been addressed, I am satisfied that the applicant has demonstrated that satisfactory

vehicular access to the site can be accommodated and I note the Transportation Section report prepared in respect of the current proposal.

- 7.3.4. Concerns have been raised in relation to Condition 3 of the Planning Authority's notification of decision to grant permission which states that all necessary measures shall be taken to avoid conflict between construction activities and pedestrian/vehicular movements on Vale View Lawn. The Planning Authority in their response to the appeal acknowledged that the reference to Vale View Lawn is an error and have provided revised wording for condition No. 3 in relation to construction traffic which seeks to avoid undue pedestrian/traffic hazard on Beaumont Avenue during construction. I consider the inclusion of a standard condition relating to submission of a construction management plan which includes details relating to site deliveries and traffic management can adequately deal with this matter in the event of a grant of permission.

#### **7.4. Other Issues**

- 7.4.1. The third party raise concerns that the development will impact on a right-of-way over the laneway within the appeal site to an existing entrance from No. 74 to the appeal site. Concerns are also raised that car parking to serve the proposed development has the potential to obstruct access to the right of way from No. 74. The drawings submitted indicate a right of way within the appeal site for services for Churchtown Business Park. The first party in response to the appeal argue that no right of way from No. 74 to the appeal site exists and the third party has submitted no evidence to support their claim in this regard. I note that the drawings indicate an existing gateway along the boundary wall between the appeal site and No. 74 to be retained. I also note that it is not the role of the Board to adjudicate on matters relating to title and that section 34(13) of the Planning Act provides that a person is not entitled solely by reason of a permission to carry out any development and as such I am satisfied that that this is a matter between the parties concerned.
- 7.4.2. I note the concerns of the third party with regard to the omission from drawings of a rear extension and inaccuracies relating to a rear shed at No. 74. Having reviewed the drawings I am satisfied that the information submitted with the planning application is sufficient for a full assessment of the appeal to be carried out.

- 7.4.3. The third party raises concerns that the proposed development will impact the development potential of their property. However no details have been submitted to substantiate this concern and having regard to the design and layout of the proposed development I consider the proposal unlikely to restrict development potential of the third party.
- 7.4.4. I note the appellants concern regarding the impact of the proposed development upon property values. I am not aware of any evidence to support the assertion that the proposed development would negatively impact property values in the area, and nothing has been submitted to demonstrate that this would be the case.
- 7.4.5. In relation to concerns regarding the setting of precedent for similar type developments, I do not consider this application would set a negative precedent given the characteristics of the site, the design proposed and compliance with development plan standards.

## **7.5. AA Screening**

- 7.5.1. I have considered the proposed development of one dwelling and associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located approx. 4.5km from the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and the South Dublin Bay SAC (000210).

The proposed development comprises the development of one dwelling and associated site works. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.

The reason for this conclusion is as follows:

- The nature and scale of the proposed dwelling and associated site works.
- The location and distance from nearest European site and the lack of any hydrological connectivity between the application site and the SAC/SPA.
- Taking into account screening determination by the Planning Authority.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

## **8.0 Recommendation**

8.1. I recommend that planning permission should be granted, subject to conditions.

## **9.0 Reasons and Considerations**

9.1. Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2022-2028, to the standards for the development of backland and infill sites set out in section 12.3.7.6 and 12.3.7.7 of that plan, to the residential zoning objective relating to the site, to the pattern of development in the area, to the infill nature and size of the site and the separation distance from existing dwellings, and to the design of the proposed development, it is considered that the proposal, subject to the conditions set out below, would not seriously injure the character of the area or the amenities of property in the vicinity, and would be acceptable in terms of design, traffic safety and amenity. 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 completed in accordance with the plans and particulars lodged with the application, 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 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.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water which shall also provide for appropriate Sustainable Urban Drainage Systems (SuDS), shall comply with the requirements of the planning authority for such works.

**Reason:** In the interest of public health.

4. Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.

**Reason:** In the interests of public health.

5. Proposals for a naming/numbering scheme for the dwelling shall be submitted to and agreed in writing with the planning authority prior to the occupation of the dwelling.

**Reason:** In the interest of urban legibility.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

7. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive and 0800 to 1400 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

8. The construction of the development shall be managed in accordance with a Construction and Environmental 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 hours of working, noise and dust management measures, waste management and recycling of materials,

environmental protection measures, welfare facilities, site deliveries, complaints procedure, pest control and traffic management arrangements.

**Reason:** In the interest of public safety, environmental protection, and residential amenity.

9. 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 the An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

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Bernadette Quinn  
Planning Inspector

23<sup>rd</sup> August 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-318189		
<b>Proposed Development Summary</b>	Single storey house		
<b>Development Address</b>	Rear of 72A,72B,70,70B, 70C, Beaumont Avenue, Dublin 14		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10(b)(i) and (iv) of Schedule 5 Part 2	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-318189-23	
<b>Proposed Development Summary</b>	Single storey house	
<b>Development Address</b>	Rear of 72A,72B,70,70B, 70C, Beaumont Avenue, Dublin 14.	
<p><b>The Board carried 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.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development.</b> 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>Proposal for residential development on land zoned residential located in an existing urban area is not considered exceptional in the context of the existing urban environment.</p> <p>No, the proposal will be connected to the existing water supply and waste water drainage infrastructure. Construction waste can be managed through standard waste management conditions.</p>	No
<p><b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The proposed development seeks permission for 1 house on a site measuring 0.068 ha which is not considered exceptional in the context of the existing urban environment.</p>	No

Are there significant cumulative considerations having regard to other existing and / or permitted projects?		
<b>Location of the Development</b> Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?  Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?	No, South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210) and Pnha are located approximately 4.5 kilometres north east of the site.  There are no other locally sensitive environmental sensitivities in the vicinity of relevance	No
<b>Conclusion</b>		
<ul style="list-style-type: none"> <li>There is no real likelihood of significant effects on the environment.</li> <li>EIA is not required.</li> </ul>	<ul style="list-style-type: none"> <li><del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</del></li> <li>Schedule 7A Information required to enable a Screening Determination to be carried out.</li> </ul>	<ul style="list-style-type: none"> <li><del>There is a real likelihood of significant effects on the environment.</del></li> <li>EIAR required.</li> </ul>

**Inspector:**

**Date:**

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)