



An  
Bord  
Pleanála

## Inspector's Report ABP-320732-24

<b>Development</b>	Construction of a single dwelling and all associated site works.
<b>Location</b>	No. 54A Ulverton Road, Dalkey, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D24A/0443.
<b>Applicant(s)</b>	Derek & Jean Jago.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refusal.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Derek & Jean Jago.
<b>Observer(s)</b>	1. Eileen Smyth. 2. Joseph Campbell. 3. Felix McTiernan. 4. Rob Hannon.
<b>Date of Site Inspection</b>	11 <sup>th</sup> day of December, 2024.

**Inspector**

Patricia M. Young.

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## 1.0 Site Location and Description

- 1.1. No. 54A Ulverton Road, is an irregular T-shaped site with a stated area of 0.1ha. It is located within the urban area of Dalkey, in south County Dublin. The site is accessed via a private laneway which at its nearest point is situated circa 50m from the eastern side of Ulverton Road (R119). The laneway appears to serve a minimum of five dwellings and a terrace of garage structures. In terms of dwellings, it appears to serve the two-storey dwelling of No. 54A Ulverton Road, 'Southwinds' a detached bungalow which is situated to the north east of the main site area, a single storey detached dwelling which is situated in the rear most garden area of No. 56 Ulverton Road, mews type dwelling (No. 3 Pebble Lane). The property of No. 3 Pebble Lane also appears to be the base of operation for an equestrian store called 'Lucas & Lilli' for which a delivery was being made to at the time of inspection. It would also appear to serve a vehicle entrance to the rear of No. 50 Ulverton Road.
- 1.2. There is a separate private amenity space to the southern side of No. 54A Ulverton Lane and to the eastern side of No. 3 Pebble Lane. The remainder of the site area consists of an *ad hoc* arrangement of access ways with some pockets of storage, *ad hoc* car parking and modest pockets of mature planting.
- 1.3. The 'Southwinds' property consists of a large backland garden plot and its curtilage is given as including main laneway to its entrance onto Ulverton Road. This property was occupied at the time of inspection.
- 1.4. The surface of the internal access ways within the site area are in an *ad hoc* condition and also function as *ad hoc* car parking. This I observed was also the case for the laneway which lies outside of the site area.
- 1.5. The private laneway's entrance onto Ulverton Road has restricted sightlines to the north and south. To the immediate south of it there is a vehicle entrance which opens into the front setback area of No. 54 Ulverton Road providing access to within curtilage car parking space. Further back on the northern side of the lane as said there is a detached dwelling which has limited setback from the edge of the lane with the occupants of this dwelling appearing to use the lane for parking and storage of waste bins. There is also a pedestrian entrance to the rear of No. 56 Ulverton Road. This property's roadside boundaries together with tall evergreen planting and a utility pole

obstructs views with the width of the pedestrian footpath restricted to the south of the laneways entrance.

- 1.6. Additionally, the alignment of the Ulverton Road carriageway to the south curves in a south easterly direction and circa 26m to the south it junctions with Ulverton Close.
- 1.7. To the north of the said entrance onto Ulverton Road man-made and natural features obstruct views of traffic and users of the pedestrian footpath in a northerly direction. Also, the footpath is of a restricted width to the immediate north. Ulverton Road, is a regional route and has a posted speed limit of 50kmph. During the time of inspection, I observed a steady flow of traffic in both directions, including Dublin Buses. Also, during inspection of the site access to the site from the entrance onto Ulverton Road blocked by vehicles and there were a number of vehicles parked along the laneway.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of one only, two and a half storey two-bedroom dwelling (Note: gross floor area of 131.7m<sup>2</sup>) together with all associated site works. The proposed works shall include a home office and associated open terrace at second level (Note: 11.2m<sup>2</sup>), private open space (Note: 50m<sup>2</sup>), garden store (Note: 9.59m<sup>2</sup>), boundary walls and pillars and all utility service connections. In addition, it is proposed to rearrange the existing car parking which is indicated to consist of six car parking spaces with the rearranged car parking maintaining six car parking spaces within overall site compound.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 14<sup>th</sup> day of August, 2024, the Planning Authority decided to **refuse** permission for the proposed development for the following single stated reason:

*“To permit the proposed development would result in the endangerment of Public Safety, due to the lack of adequate visibility; the substandard nature of the access lane onto Ulverton Road for exiting vehicles from the access lane; traffic hazard and/or obstruction of road users or otherwise. It is considered that the proposed development would set an undesirable precedent resulting in a substandard form of development*

*and would be contrary to the proper planning and sustainable development of the area."*

### 3.2. Planning Authority Reports

3.2.1. **Planning Reports:** The Planning Authority's report is the basis of their decision. This report concurs with the assessment of the Transportation Planning Division, in that the existing laneway and entrance serving the subject site was inadequate and substandard to facilitate additional backland dwelling south. The Planner also noted the concerns arising in relation to the separate ownership of the laneway and the entrance. They also raised concerns that the proposed development would give rise to further piecemeal development at this location. The report concludes with a recommendation to refuse permission as per Section 3.1.1 above.

#### 3.2.2. Other Technical Reports

**Transportation:** Concludes with a recommendation of refusal that is consistent with the considerations set out in the Planning Authority's notification to refuse planning permission (Note: see Section 3.1.1 above).

**Drainage:** No objection, subject to standard safeguards.

### 3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection, subject to standard safeguards.

### 3.4. Third Party Observations

I consider that the main concerns raised by the Third-Party observers in their submissions to the Planning Authority correlate with those raised by the Third-Party Observers in their submissions to the Board (See: Section 6 of this report below). I have noted the issues raised in these submissions that are attached to file.

## 4.0 Planning History

### 4.1. Site

- Address given as 54A Ulverton Road

**ABP Ref: PL 06D.221728 (P.A. Ref. No. D06A/1619):** On appeal to the Board planning permission was **granted** for part of the development of the garden at 54A Ulverton Road. The development consisted of a detached two-storey, two-bedroom dwelling, together with shared entrance gateway, shared entrance driveway, associated screen walls and site works, car parking and minor structural modifications to north-east corner of No.54A. Ulverton Road.

Decision date: 07.08.2007.

- **Address given as to the side of 54A Ulverton Road including 1-2 Bakers Garages (Rear of Ulverton House) Ulverton Road, Dalkey.**

**ABP- PL06D.211133 (P.A. Ref. No. D04A/1247):** On appeal to the Board permission was **granted** for the demolition of two lockup garages, known as 1 and 2 Bakers Garages, located to the rear of Ulverton House and the demolition of a garden shed, together with land being part of the garden of 54A Ulverton Road, Dalkey, County Dublin, the construction of a one three bedroom two-storey mews type dwellinghouse with separate workshop.

Decision date: 06.07.2005

4.2. **‘Southwinds’, the adjoining property to the north east of the site and served by the same access onto Ulverton Road.**

- **ABP-318261-23 (P.A. Ref. No. D23A/0325):** On appeal to the Board planning permission was **refused** for the construction for 6 no. dwelling houses including boundary treatment, circulation road within site and driveways, connections to mains sewer and water including ancillary works for the following stated reason and consideration:

*“Having regards to the standards set down in DMURS (Design Manual for Urban Roads and Streets) and to the information submitted by the applicant in relation to access arrangements, including the Trafficwise report dated 26 July 2023 submitted as part of the Further Information to the planning authority, the Board was not satisfied that clarity had been provided regarding sightlines available to the proposed development in both directions. In the absence of such clarity and/or without any proposed alternative measures, such as traffic calming in the vicinity of the proposed development, the Board considered the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users. The proposed*

*development would, therefore, be contrary to the proper planning and sustainable development of the area.”*

Decision date: 11.04.2024.

- **ABP-315065-22 (P.A. Ref. No. D22A/0638):** On appeal to the Board permission was **refused** for the construction of 6 no. houses including boundary treatment, access roads and driveways, connections to mains sewer and water including ancillary works. I note the following comment provided at the end of the Board Direction:

*“The Board noted the Inspector’s view that the restricted sightlines and potential additional traffic movements generated by the proposed development would not warrant grounds for a refusal. The Board, however, having regard to the standards set down in DMURS (Design Manual for Urban Roads and Streets), was not satisfied that sufficient information had been provided regarding access arrangements and sightlines available for the proposed development in this 50kph zone. Consequently, the Board had concerns regarding risks to public safety by reason of traffic hazard or obstruction of road users. Given the substantive reason for refusal above, the Board decided not to pursue this matter further as part of the current appeal”.*

Decision date: 11.04.2024.

## 5.0 Policy Context

### 5.1. Local

- 5.1.1. The Dún Laoghaire-Rathdown County Development Plan, 2022-2028, is the operative County Development Plan under which the site is subject to land use zoning ‘A’ which has the objective: *“to provide residential development and improve residential amenity while protecting the existing residential amenities”*. ‘Residential’ development is permitted in principle under this land use zoning objective.
- 5.1.2. The laneway serving this site aligns with the northwestern boundary of the Architectural Conservation Area for Dalkey Village and the subject lands lie outside of the zone of archaeological potential for the centre of Dalkey (Note: Recorded Monument & Place - DU023-023).
- 5.1.3. Section 12.3.7.6 - Backland Development



*“Backland residential development usually involves the establishment of a new single dwelling, and a building line to the rear of an existing line of houses. Residential development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such”.*

5.1.4. Section 12.3.7.7 - Infill

In accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County.

New infill development shall respect the height and massing of existing residential units.

Infill development shall retain the physical character of the area.

5.1.5. Policy Objective PHP18 - Residential Density

Seeks to increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill / brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.

Additionally, this policy objective seeks to encourage higher residential densities on the proviso proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.

5.1.6. Policy Objective PHP20 - Protection of Existing Residential Amenity

Seeks to ensure the residential amenity of existing homes in the Built-Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

5.1.7. Policy Objective PHP27 - Housing Mix

Seeks to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future regional HNDA.

5.1.8. Policy Objective PHP42 - Building Design & Height

Seeks to encourage high quality design of all new development.

Seeks to ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 in a manner consistent with NPO 13 of the NPF.

- 5.1.9. Chapter 3 deals with the matter of Climate Action. It sets out the detailed policy objectives in relation to climate and the role of planning in climate change mitigation, climate change adaptation and the transition towards a more climate resilient County.
- 5.1.10. Chapter 5 deals with the matter of Transport and Mobility. It seeks the creation of a compact and connected County, promoting compact growth, and ensuring that people can easily access their homes, employment, education, and the services they require by means of sustainable transport.
- 5.1.11. Chapter 12 sets out the Development Management standards including those relating to residential developments.

## **5.2. Local Other**

- Dún Laoghaire-Rathdown County Council Development Contribution Scheme, 2023-2028.
- Dún Laoghaire-Rathdown County Council Guidelines for Naming and Numbering.

## **5.3. Regional**

- 5.3.1. **Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES), 2019 to 2031.**

This Strategy Document supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the region. The following regional policy objectives (RPOs) are considered relevant to this application:

RPO 3.2 – Promotes compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city.

RPO 4.3 - Supports the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City and suburbs. Additionally, seeks to ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure as well as public transport projects.

According to the RSES, the site lies in the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP). It advocates sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within the built-up area of Dublin City and its suburbs.

#### 5.4. **National**

- 5.4.1. **Project Ireland 2040 - National Planning Framework (NPF)**, 2018-2040, is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040 and within this framework Dublin is identified as one of five cities to support significant population and employment growth.

The NPF supports the requirement set out in the Government's strategy for: 'Rebuilding Ireland: Action Plan for Housing and Homelessness', 2016, to ensure the provision of a social and affordable supply of housing in appropriate locations.

National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF and include the following:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 11 presumption in favour of development in existing settlements subject to safeguards.
- NPO 32 targets the delivery of 550,000 additional households by 2040.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.

- 5.4.2. The following are also relevant:

- Housing for All – A New Housing Plan for Ireland, 2021.
- Rebuilding Ireland – Action Plan for Housing and Homelessness, 2016.
- Climate Action Plan, 2024.
- National Sustainable Mobility Policy, 2022.
- Places for People – the National Policy on Architecture, 2022.

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, (2024).
- Design Manual for Urban Roads and Streets (DMURS) (2019).

## **5.5. Natural Heritage Designations**

5.5.1. None with the zone of influence.

## **5.6. EIA Screening**

5.6.1. See Appendix 1 – EIA Pre-Screening Form attached. Having regard to the modest nature, scale and extent of the development proposed, the site location outside of any sensitive location specified in article 109(4) of the Planning and Development Regulations, 2001, (as amended), and within an established built-up suburban area to the south of Dublin City, a location that is served by public water and wastewater infrastructure, the nature of the receiving environment, the existing pattern of development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required in this case.

## **5.7. Built Heritage**

5.7.1. The site adjoins the boundaries of Dalkey Village Architectural Conservation Area, and it is outside of any zone of archaeological constraint for Recorded Monuments & Places in its setting.

## **6.0 The Appeal**

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

6.1.1. The First Party's grounds of appeal can be summarised as follows:

#### **Planning Authority's Decision**

- The Board is sought to overturn the Planning Authority's decision.

#### **Planning Provisions**

- Planning provisions and guidance support compact growth, infill development and higher density residential development in areas close to public transport.
- The local planning provision provides flexibility in the provision of car parking spaces in this type of context and the existing car parking provision on site meets local and national planning requirements for both existing as well as the proposed dwelling unit.

### **Traffic Hazard**

- It is not accepted that the proposed development would result in the endangerment of public safety due to the lack of adequate visibility and the substandard nature of the access lane onto Ulverton Road.
- This development in terms of traffic generation would merge with existing development at this location and would not generate any additional traffic.
- The car parking provision for the proposed dwelling unit would be 'Garage 6' though is a development that is suitable to be car parking space free.
- There have been no accidents on the laneway serving the site.
- The lane is in a poor state as a result of ongoing protracted construction works outside of the site area.

### **Precedent**

- This development would not give rise to any precedent.
- Reference is made to what is considered to be precedent for similar developments in the setting.

### **Other**

- The Planning Authority's Planning Officers report outside of the traffic matter is positive in its consideration of the proposed development.
- Procedural concerns in relation to the Planning Authority's handling of this planning application are raised.
- It is not possible to develop a masterplan for the lands to the east of this site as the owners of these lands have not displayed an interest in doing so.
- This development realises the potential of these lands.

- This appeal submission is accompanied by a Design Statement and additional drawings.

## **6.2. Planning Authority Response**

- 6.2.1. The Planning Authority's response considers that the grounds of appeal give rise to no new issues which would justify a change of attitude towards the proposed development.

## **6.3. Observations**

- 6.3.1. The Board received Third Party Observations from:

- Rob & Linda Hannon (20.09.2024) with an address of No. 52 Ulverton Road.
- Felix & Kathleen McTiernan (27.09.2024) with an address of No. 54 Ulverton Road.
- Joseph Campbell (29.09.2024) with an address of No. 56 Ulverton Road.
- Eileen Smyth (30.09.2024) indicating that the adjoining property called Southwind's is their family property, and they are owners of the laneway. In this regard the observer indicates that they have not extended any rights to the applicant for any further dwelling house to access from their property.

I consider that these observations collectively support the Planning Authority's decision to refuse permission for the development sought under this application and I further consider that they contain several overlapping concerns. I therefore propose to summarise them collectively under the following broad headings below:

### **Civil Matters & Unauthorised Development**

- It is contended that the adjoining landowner of 54 Ulverton Road under a grant of permission P.A. Ref. No. D01A/0357 permitted a development that was dependent on access from their property and for which no way leave was granted by the owners of this laneway and access onto Ulverton Road. The Planning Authority required as part of the grant of permission that a wayleave be obtained and this condition was never complied with. In the absence of the same the entrance and laneway use by the appellant is unauthorised.

### **Planning History**

- The appellant has sought several permissions for development at this location and has done so in a piecemeal manner.
- The Planning Authority refused permission under P.A. Ref. No. D18A/0578 for reasons that included traffic hazard and public safety.

### **Design and Layout**

- The proposed development is a two and a half storey dwelling house which could accommodate an average family with the work office being of a size that would accommodate an additional bedroom.

### **Traffic**

- It is not accepted that the appellant is correct in their assertion that the proposed dwelling would not generate any additional traffic.
- Ulverton Road is a bus route and the sightlines onto Ulverton Road that would serve the proposed development do not comply with the required minimum sightline standards.
- The appellant downplays the level of traffic this development would generate.
- This development would give rise to additional traffic hazards and obstruction to road users.
- It is not sufficient to suggest that they will remain in ownership of the various properties indefinitely into the future and each dwelling unit must be considered as a traffic generator in the consideration of this proposed developments appropriateness.
- The appellant does not have consent for the storage of the waste receptacles for the individual dwellings at the access to Ulverton Road and the additional dwelling unit would have to be served by a refuse collection lorry accessing it from a substandard lane with a substandard access onto the public road.
- The existing situation on bin collection days on what is an already busy laneway with no coordinated bin storage is that it creates hazards and obstructions for other users of the lane.
- The appellants have objected to other developments that would utilise this lane on the grounds of substandard nature of the laneway and the access onto Ulverton Road.

- This development is premature pending the upgrading works to a privately owned laneway and improvements to its sightlines onto Ulverton Road.
- The appellants cavalier attitude towards access for emergency service vehicles is a cause of concern for other users of the lane including its owners.
- This application fails to demonstrate that the internal layout and car parking arrangements would be safe for the existing and proposed dwelling units at No. 54A Ulverton Road.

### **Residential Amenity**

- The proposed development would give rise to diminished privacy of properties in its vicinity. In this regard particular concern is raised in relation to the elevated terrace and its potential to give rise to overlooking of private amenity spaces.
- The height, mass, and volume of the proposed dwelling relative to existing properties in its vicinity would give rise to a loss in daylight to their internal and external spaces.

### **Visual Amenity**

- The proposed dwelling is visually overbearing in its height, scale, bulk, and its height is out of character with adjoining dormer and bungalow structures in its setting.

### **Natural Features**

- The proposed development would result in the loss of several trees which would contribute to the diminishment of the visual amenities of its setting as well as would adversely impinge on a wildlife corridor.
- Badgers and foxes are frequently observed on the laneway serving the site. The proposed development would potentially adversely impact them.

### **Other**

- This development would give rise to a devaluation of property value of properties in its vicinity.
- This development would obstruct views from properties including views towards St. Patrick's Church.
- The appellants contention that the proposed development would not give rise to a precedent is not accepted.



- Other developments have been refused along Ulverton Road by the Planning Authority and the Board on traffic safety grounds.
- The appellant has consistently objected to any other properties proposing development on adjoining land and that used the laneway that provides access onto Ulverton Road.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. I am satisfied that the main issues in this appeal case are those raised by the appellant and third parties in this appeal case and that the issues can be dealt with under the following broad headings:

- Principle of the Proposed Development
- Planning Authorities Reason for Refusal
- Amenity Impact
- Other Matters Arising

7.1.2. The matter of 'Appropriate Assessment' also requires examination.

### **7.2. Principle of the Proposed Development**

7.2.1. This backland brownfield appeal site is situated on serviced land that is zoned 'Objective A' under the applicable Development Plan. The land use zoning objective for which is to provide residential development and improve residential amenity while protecting the existing residential amenities. Local through to national planning policy provisions and guidance are in a consistent manner supportive of more compact and efficient use of serviced zone land including brownfield infill sites subject to safeguards.

7.2.2. I therefore concur with the Planning Authority that the general principle of residential development is acceptable, subject to normal planning considerations.

7.2.3. I also consider that the backland nature of the site is one whereby despite its proximity to the Dalkey Village Architectural Conservation Area it is not a visible component of this sensitive to change area's public domain. Though the proposed development would give rise to localised views from the rear of period properties within the Dalkey

Village Architectural Conservation Area given this site lies in a backland location with part of the site bounding this area as defined under the Development Plan.

- 7.2.4. I consider that in this context the 9m maximum height of the dwelling unit is visually not subservient to period properties that form part of this adjoining Architectural Conservation Area setting through to its not subservient to other properties within its immediate backland setting including No.s 54A Ulverton Road, No. 3 Pebble Lane, 'Southwinds' and the single storey dwelling to the rear of No. 56 Ulverton Road.
- 7.2.5. Moreover, it is not visually sympathetic to the Church Hill Mews properties which are located to the south of the site and the terrace of garages. Improvements could be achieved by reducing the 9m overall maximum height which is tall for what is described as a two storey dwelling but which contains an attic level that effectively provides a third floor of additional habitable floor area alongside an elevated roof terrace which is also at third floor level for which I am not convinced the 900mm parapet and 1.6m obscured safety glass obscures this feature as observed from properties within its vicinity.
- 7.2.6. While I consider that some improvements could be made to soften the appearance of the proposed dwelling by way of tree planting and pleated hedge planting I am not convinced that the proposed dwelling is one that would sit comfortably and sympathetically with the built, residential and visual sensitivities of its setting in a manner that is consistent protecting the existing residential amenities which is in part provided for under the land use objective for 'Objective A' zoned land but also Section 11.4.2.1 Policy Objective HER1 which relates to Architectural Conservation Areas. This policy under subsection (iii) seeks to ensure that any new development immediately adjoining an ACA is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials. Through to under subsection (iv) that they are of a high quality, sensitive design and are complementary and/or sympathetic to their context and scale.

### **7.3. Planning Authorities Reason for Refusal**

- 7.3.1. The proposed development sought for planning permission in summary relates to the creation of a new residential subdivision at the site of No. 54A Ulverton Road on which a detached dwelling house and its associated works is proposed. This proposed dwelling would be dependent on access onto the public road network via a private laneway that lies outside of the redline site area.

- 7.3.2. As set out under Section 3.1.1 of this report the Planning Authority refused permission for the proposed development on the basis that it considered to permit the proposed development would result in the endangerment of public safety by virtue of the due lack of adequate visibility from this private laneway's entrance onto Ulverton Road.
- 7.3.3. It was further raised as a concern that this laneway was substandard and that the proposed development had the potential to give rise to a traffic hazard and/or obstruction of road users as well as the proposed development would set an undesirable precedent resulting in a substandard form of development.
- 7.3.4. On the basis of these concerns, the Planning Authority concluded that to permit the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.3.5. I note that the given reason for refusal reflects the Transportation Division concerns and recommendations in relation to the proposed development which the Planning Authority's Planning Officer in their report concurred with. I note that the Transportation Divisions report noted that the proposed development did not propose to provide any additional car parking spaces on site to serve the proposed dwelling house. It further noted that it is their view that the proposed additional dwelling unit would nonetheless generate additional traffic movements on the access lane as well as at its entrance onto the public road network at Ulverton Road where the sightlines are substandard in both directions over and above the existing situation. They also considered that the lack of adequate visibility and the substandard nature of Ulverton Road for exiting vehicles from the access lane would give rise to a traffic hazard and an obstruction for other road users which was not deemed to be acceptable.
- 7.3.6. Having inspected the site and its setting I first of all note that the planning application form indicates there is an existing provision for six car parking spaces on site and that this is sufficient to cater for the existing dwelling units of 54A Ulverton Road, No. 3 Pebble Lane and the proposed dwelling unit which I consider is of a design that internally has the capacity to be used as a three bedroom dwelling unit though is indicated as a two bedroom dwelling with a study in the submitted application drawings. The attic/study room is of the spatial dimension and quantitative floor area standard that it would exceed what the general expected standards for a two-person bedspace bedroom.

- 7.3.7. Setting this concern to the site, the site is located where it is unclear as to the nature of usage of the garage structures which the applicant proposes to utilise the one which is indicated to be in their ownership for the proposed dwelling units use for their dedicated car parking requirement.
- 7.3.8. Further, the spaces surrounding No.s 54A Ulverton Road and No. 3 Pebble Lane are not laid out in any discernible manner whereby it could be concluded that it provides currently provides for six car parking spaces and safe turning spaces for the same alongside that associated with the use of the garage structures outside of the appellants ownership and the vehicle entrance to the rear of No. 50 Ulverton Road. Moreover, it would appear that there is also a business enterprise operating from No. 3 Pebble Lane and the laneway outside of the site area appears to be used in an ad hoc manner of carparking.
- 7.3.9. Additionally, the proposed car parking arrangement to serve the existing dwelling units of No. 54A Ulverton Road, No. 3 Pebble Lane and the proposed dwelling appears to be tight and the arrangement is such that it is likely to give rise to obstruction to garages outside of the appellants control the vehicle entrance to the rear of No. 50 Ulverton Road alongside together there is potential for obstruction to arise for other users of the lane from the additional quantum of vehicle traffic that would arise from this development. Moreover, the arrangement for car parking serving the existing mews dwelling of No. 3 Pebble Lane is also dependent on no obstruction to the west of it. The overall proposed arrangement for car parking spaces as proposed under this planning application is very fragmented and does not give rise to a qualitative hierarchy of spaces or high quality placemaking of this backland location. I also consider that the proposed arrangement is such that is likely to generate an overspill of car parking and vehicle manoeuvres outside of the redline area of the site and onto Third Party lands.
- 7.3.10. Further, I note that previous planning applications relating to proposed residential development of this private laneway on the 'Southwinds' property found that the sightlines onto Ulverton Road were significantly below the Design Manual for Urban Roads & Streets, (DMURS), 2019, which I note is 50m in this public road context given its posted speed limit of 50kmph. It was found that the sightlines from this entrance onto Ulverton Road was only 33m to the left and 28m to the right as a result of natural and man-made features (Note: ABP- 318261-23).

- 7.3.11. The appellant in this case has not demonstrated that they have sufficient legal interest to improve not only the substandard surface condition of the private laneway on which the proposed development would be dependent upon. Nor have they demonstrated that they have the consent of the Third-Party landowners of the properties on either side of this entrance to provide the required sightlines. They also limit the improvements to the access serving the proposed development to within the red line area with no improvements suggested to the surrounding immediate spaces associated with No. 54A Ulverton Road or No. 3 Pebble Lane.
- 7.3.12. Moreover, the appellants have also not demonstrated that dialogue was had with No. 50 Ulverton Road, the garage structures or the access point to No. 54A Ulverton Road to the north so that a coherent durable qualitative domain was achieved to the south of the 'Southwinds' laneway and access onto Ulverton Road at a minimum.
- 7.3.13. On this point there is also no demonstration that dialogue was had with the owners of the private lane and access onto Ulverton Road to achieve a qualitative access serving these backlands onto the public domain and achieving a private access that was of suitable quality to serve the several properties and different land uses that are dependent on it for vehicles, pedestrians and cyclists. Similarly, there appears to be no dialogue with the property owners of No.s 52 and 54 Ulverton Road to ensure that the historic rear boundaries of their properties would not collapse onto two of the proposed car parking spaces in what is indicated as a permeable brick paved footpath.
- 7.3.14. Alongside No. 54 Ulverton Road to the immediate south of the said entrance onto Ulverton Road forms part of the Dalkey Village Architectural Conservation Area (ACA) and its roadside boundaries contains qualitative period roadside man-made features that are of built heritage and visual interest. As such they not only contribute to the authenticity and legibility of No. 52 and 54 Ulverton Road original design as appreciated as part of their ACA streetscape scene. They also in my view cumulative positively contribute to other surviving period buildings, structures, features, and spaces within this ACA. In this context I consider any alteration to them could potentially be contrary to the provisions of Section 11.4.2.1 Policy Objective HER1 of the Development Plan which under subsection (vi) states that the Council will: "*seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture*".

- 7.3.15. I also observed during my site inspection that the sightlines onto the public road with the pedestrian footpath to the south and north of this entrance being of restricted width and appeared to be less than the 33m and 28m indicated in the documentation accompanying documentation relating to appeal case ABP-318261-23. On this point I note that Section 12.4.8 of the Development Plan requires that proper provision shall be made for sightlines at the exits in accordance with the requirements in DMURS, and as appropriate to the particular road type, and speed being accessed. There is no speed assessment provided with this application for the section of road adjoining the entrance onto Ulverton Road and DMURS requirement for this entrance at this location where the posted speed limit is 50 kilometres per hour is 50m in both directions from a 2.4m setback.
- 7.3.16. I also consider that in the intervening time that this lane has continued to deteriorate in its surface condition through to on the day of inspection access onto this lane was blocked by other vehicles. Further, it was evident that the laneway in vicinity of the entrance is also used for parking and for the storage of waste bins which add to the obstructions in place.
- 7.3.17. While I am cognisant that matters relating to such access/right-of-way issues are considered to be a civil matter outside the remit of this planning appeal notwithstanding, I consider that the applicant has not demonstrated sufficient legal interest to make any qualitative improvements to either the lane or its entrance onto Ulverton Road where sightlines are significantly deficient in both directions.
- 7.3.18. Further, I am also not convinced that the appellant in their appeal submission or the documentation provided with this subject planning application has in any way demonstrated that the likely existing quantum of vehicle traffic generated on this site would not increase from the proposed dwelling house sought under this application.
- 7.3.19. Critically it has not been demonstrated that the proposed development can be safely accommodated in terms of access as well as egress onto the public road network alone or in combination with the existing development dependent on a substandard private lane and substandard entrance onto Ulverton Road.
- 7.3.20. Nor am I satisfied that it would be appropriate that any further development occur at this backland location in the absence of any improvements to both the lane and its entrance. The latter, in my view, would be best achieved through the preparation of an agreed masterplan by those with interests to this entrance, lane and the properties

that are dependent upon. Such a plan should also inform any additional development to be provided at this backland location.

- 7.3.21. I also consider the existing quantum of development upon which access onto the public road network is dependent upon the private lane and entrance onto Ulverton Road is in its existing situation not providing a safe access as well as egress for existing users nor is it not resulting in situations where it gives rise to obstruction to its users including in the vicinity of where it meets Ulverton Road.
- 7.3.22. On this point I also note that I observed Ulverton Road to be a steadily trafficked regional road in both directions and though it has a posted speed limit of 50kmph, however, it appeared that this limit is exceeded by some of its road users which I note is a separate concern and is a road policy issue. I also noted that the alignment of Ulverton Road curves with a south easterly inclination to the south of the entrance that would serve the site.
- 7.3.23. Conclusion: On the basis of the above considerations I recommend that the Board uphold the Planning Authority's reasons for refusal in this case in the interests of proper planning and sustainable development of the area.

#### **7.4. Amenity Impacts**

- 7.4.1. I find that the Third Parties in this appeal case raise several concerns in relation to the potential of the proposed development, if permitted, to give rise to undue residential on their properties and the visual amenities of this setting.
- 7.4.2. In general, I consider that there is some merit for any proposed dwelling at this backland location to be more respectful to adjoining and neighbouring properties in its immediate setting, including No. 3 Pebble Lane, Church Hill Mews and the period properties in its immediate context that address the eastern side of Ulverton Road.
- 7.4.3. Moreover, it would be desirable as part of achieving a more coordinated and less piecemeal approach to any future residential redevelopment at backland location including for the curtilage of 'Southwinds' is achieved through the preparation of a site and setting sensitive masterplan that accords with relevant local through to national planning provisions and guidance. I note that this would accord with Section 12.3.7.6 of the Development Plan which deals with the matter of backland development. It states: "*where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the*

*amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development”.*

- 7.4.4. I also consider that the proposed design of the dwelling could have provided more robust measures to deal with the matter of overshadowing and overlooking that would arise from it were it to be permitted on the established amenities of residential in its vicinity, irrespective of whether or not this includes properties in the appellants ownership.
- 7.4.5. On this point I raise concern that the proposed development if reduced in height not only would it be visually less overbearing on properties in its immediate vicinity it would also result in less undue overshadowing on properties in its vicinity. Including but not limited to the private amenity space to the rear of No. 54A Ulverton Road, on the window openings to the front façade of No. 3 Pebble Lane and onto the rear amenity space of No.s 50, 52 and 54 Ulverton Road. It has not been demonstrated by the documentation provided in a manner consistent with how these matters are to be assessed that the proposed dwelling would not give rise to undue diminishment to daylight and sunlight penetration of the internal amenity spaces and open space amenity provisions of properties outside of the new proposed subdivision in which it would be sited.
- 7.4.6. Further, on the matter of overlooking I am of the view that the rear façade and the provision of additional open space above ground level could have been more sensitively designed to minimise its potential to giving rise to overlooking of properties in its vicinity. The overall design is one that I share the view of Third-Party Observers would despite their being an established level of overlooking in this suburban context has not appropriately addressed by appropriate design measures.
- 7.4.7. Notwithstanding these concerns, I am of the view that these concerns in themselves are not of material significance that would in themselves support a reason for refusal. I also recommend that the Board should it be minded to grant permission to include appropriately worded conditions to deal with the above concerns.

## **7.5. Other Matters Arising**

- 7.5.1. **Procedural Concerns:** The Appellant in this case raises concerns in relation to the Planning Authority’s handling of this planning application. In relation to this concern, I note that the appeal the Board does not have an ombudsman role and its remit in this appeal case is the “de novo” consideration of the proposed development. That is



to say that the Board considers the proposal having regard to the same planning matters to which a Planning Authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant local through to national planning policy provisions and guidelines through to any relevant planning history relating to the application. Further, I have considered the information available on file and I am satisfied that together with my site inspection that outside of the lack of clarity on ecological matters given the concerns raised in relation to the presence of bats and badgers at this location, there is otherwise adequate information available for the Board to make a determination on the proposed development.

- 7.5.2. **Unauthorised Development:** In tandem with the civil matters raised as concerns by the Third Party owners of the private laneway and access onto Ulverton Road I note that they also raise the matter of in addition to the applicant not having their consent for this application or in the past which included a past grant of permission requiring by way of condition the prior to commencement of works the agreement of a wayleave over this part of their property. They contend that this condition was not complied with and as such they contend that there is a situation where the applicants use of their private laneway and access onto Ulverton Road gives rise to unauthorised development in addition to civil related concerns for them.

In relation to this concern, I consider that any matters relating to unauthorised development is a matter for the Planning Authority, as enforcement falls under their jurisdiction.

However, in this case I consider that the issues raised in relation to the applicant's use of the private laneway and access onto Ulverton Road, together with the limited clarity on the nature of their consents beyond the land that is indicated as in their legal interest but upon which this proposed development is dependent upon, with this further complicated by the lack of consent from the owners of No. 54 and No. 56 Ulverton Road to achieve any meaningful improvement to the sightlines of the subject entrance onto Ulverton Road so that it can meet required standards, is such that it would be unreasonable in my view to deal with them by condition or by the provision of an advisory note setting out Section 34(13) of the Planning and Development Act 2000, as amended. This I note stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development.

- 7.5.3. **Loss of Natural Features:** Concerns are raised that the proposed development would give rise to a loss of natural features from the site and would in turn diminish the visual outlook from properties in its vicinity through to adversely impact upon the biodiversity of its setting.

I note that there is no tree protection and/or any other designation to protect the natural features on this site.

I also consider that having inspected the site and its immediate setting that the natural features that are of limited biodiversity value, but they do add to the biodiversity of this suburban setting through to the mature hedge and tree species that are present provide a level of visual as well as screening of the existing development in this backland location.

I further consider that the loss of existing natural features could be compensated for by a qualitative landscaping scheme that included additional tree through to hedge and pleated tree planting to overcome this loss. Alongside I consider that appropriate placement of trees, pleated trees, hedge planting as part of a considered qualitative landscape scheme could also help achieve a visual softening and buffering of the level of the development in this backland setting.

- 7.5.4. **Bats and Badgers (Protected Species):** There are concerns raised by Third Party Observers that the proposed development, if permitted, has the potential adversely impact on bats and badgers at this location. With it being contended that these species have been observed at this backland location, including the laneway.

I am cognisant that bats and badgers are protected species as well as the protections that are afforded to them.

I note to the Board that this application is not accompanied by any ecological impact assessment and during inspection I did not observe any evidence of either species including there was no evidence of roosts in the existing natural and man-made features which included buildings and structures that were in poor condition with this including remnants of period stone walls that has deep crevices in them.

Overall, during my inspection of the site and its immediate setting which included the access lane where it is noted that badgers have been observed I found it to be of poor biodiversity value and there was no evidence of badger setts or bat roosts visible. Notwithstanding, as a precautionary measure I recommend that should the Board be

minded to grant permission, I recommend that it includes appropriately worded conditions to deal with this matter so to ensure that the proposed development particularly during construction does not give rise to any harm to either species. I also consider that the proposed design and layout of the development sought under this application would require a more qualitative landscaping approach than that which is indicated in the submitted plans.

- 7.5.5. **Obstruction of Views:** Concerns are raised that the proposed development, if permitted would give rise to a detrimental impact on the residential amenity of neighbouring dwellings by reason of the obstruction of views towards St. Patricks Church that are currently visible as above the roofline. In relation to this concern, I consider it is relevant to note that any such views are not of a public interest nor are they expressly identified as views worthy of preservation in the relevant Development Plan. They are views enjoyed by a private individual from private property. A private individual does not have a right to a view and whilst a particular view from a property can be desirable, it is not definitive nor is it a legal entitlement. I therefore consider that this concern is not one that would substantiate in itself or in part support a reason for refusal of the proposed development on the basis of serious injury to the visual and residential amenities of properties in the vicinity.
- 7.5.6. **Depreciation of Property Values:** I note that concern is raised by Third Parties that the proposed development, if permitted, would give rise to a depreciation of their property values. I am generally satisfied having regard to the land use zoning of the site and its setting that the principle of a dwelling house in this suburban backland site subject to safeguards would not result any significant loss of amenity to adjoining properties and is not therefore considered to be a bad neighbour in this context. I also note that it is not supported by any evidence from an expert in this field as to how and to what degree the proposed development could, if permitted, give rise to a depreciation of property values in its vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal in this instance.
- 7.5.7. **Planning Precedents:** In the consideration of this appeal case, I have had regard to the planning history in relation to development that were sought where access onto the public road network was dependent upon this substandard lane and entrance onto Ulverton Road. In this regard I note that the Board in their assessment of a recent appeal case ABP-318261-23 refused permission for 6 no. dwelling houses on the adjoining 'Southwinds' associated curtilage on the basis that the proposed

development failed to demonstrate that the access onto Ulverton Road would meet the standards set down in DMURS.

In this regard they considered that the sightlines available to the proposed development in both directions were substandard and would endanger public safety by reason of traffic hazard or obstruction of road users.

This backland location has been significantly developed over recent decades to its now existing situation where the entrance onto Ulverton Road as well as this substandard laneway serves several dwelling units, a number of garage units as well as commercial enterprise.

I consider that the development has occurred in this backland location to be uncoordinated, piecemeal, and fragmented alongside it has not included any meaningful improvement to the entrance onto Ulverton Road, the laneway through to any management or regulation of its use including parking and the collection of bins.

In this situation I consider that the proposed development would further add to this *ad hoc* pattern of development that would in turn would cumulatively add to the road safety, traffic hazards and obstruction issues through to it would not in the long term achieve qualitative placemaking of any remaining latent potential of this backland residentially zoned and serviced location that forms part of predominantly residential in character established neighbourhood.

7.5.8. **Residential Amenity for Future Occupiers:** I raise no substantive issues with regards to the standard of internal and external amenity provided for in the design and layout of the proposed dwelling unit, subject to safeguards. This I note includes the private amenity space provision irrespective of the proposed dwelling being considered a two- or three-bedroom dwelling unit given that the 52-sq.m. proposed meets the minimum standards set out under SPPR 2 of the Sustainable and Compact Settlements Guidelines for Planning Authorities, 2024.

7.5.9. **Servicing:** In terms of foul and public water supply I am satisfied that the existing infrastructure has sufficient capacity to absorb the additional demands the proposed development would generate on it. I also note that the Planning Authority raised no objection to the proposed drainage arrangements subject to standard in nature conditions and there was no submission received from Irish Water. Should the Board be minded to grant permission I recommend that this matter be dealt with by way of appropriately worded conditions.

- 7.5.10. **Refuse/Emergency Service Vehicles:** I consider that this application does not demonstrate that the additional refuse generated by the proposed dwelling when taken together with the existing quantum of development would not give rise to any further obstruction at the entrance onto Ulverton Road or that this substandard nature is able to safely cater for refuse collection vehicles or should an adverse circumstance arise emergency service vehicles.
- 7.5.11. **Contributions:** I recommend that the Board include as part of a grant of permission a suitably worded condition requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.
- 7.5.12. **Part V:** This development is Part V exempt.

## 8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located in a serviced suburban area and has a brownfield character. There are no Natura 2000 sites within its zone of influence. The nearest Natura 2000 sites is Dalkey Islands Special Protection Area (Site Code: 004172) which is located c0.8km to the south east of the site. At a further distance of c1.05km to the east of the site is Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000)
- 8.3. The proposed development as set out under Section 2 of this report comprises of the creation of a new residential subdivision at No. 54A Ulverton Road on which a detached dwelling house is proposed.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale, extent of the development sought, and the site is brownfield in a serviced location with No. 54A Ulverton Road having existing connections to public mains drainage. I therefore am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any Natura 2000 site. The reason for this conclusion is as follows:
- The modest nature, scale, and extent of the proposed development.
  - The brownfield nature of the appeal site and its location within an established as well as serviced suburban area within the Dublin metropolitan region.

- The residential zoning of the site and local through to national planning provisions which in a consistent manner support compact dense and efficient use of brownfield lands that are accessible as well as served by existing land uses that are supportive to sustainable neighbourhoods and successful placemaking.
- The site is served by an existing connection to the public foul sewer and public water supply. There is no capacity issue in terms of these public services to accommodate the nature, scale, and extent of residential proposed.
- The separation distance from the nearest Natura 2000 site(s) and the lack of any connections to any such sites.
- The screening assessment conducted by the Planning Authority and their conclusions.

8.6. Conclusion: 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 Natura 2000 Site or Sites and appropriate assessment is therefore not required in this case.

## 9.0 Recommendation

9.1. I recommend that permission be **refused**.

## 10.0 Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a substandard private laneway and substandard entrance onto Ulverton Road at a point where sightlines are restricted in both directions. It is further considered that the traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users. For these reasons it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

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

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Patricia M. Young  
Planning Inspector -23<sup>rd</sup> day of December, 2024.

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	<b>ABP-320732-24</b>		
<b>Proposed Development Summary</b>	Construction of a single dwelling and all associated site works.		
<b>Development Address</b>	54A Ulverton Road, Glenagery, Co. Dublin, A96 V889.		
<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>	✓
		<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>	✓		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>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	✓	Class 10(b)(i) of Part 2: Threshold 500 dwelling units (iv) urban development 10 ha site.	Development consists of subdivision of the curtilage of an existing dwelling house and the construction of an additional dwelling unit
			Proceed to Q.4



			together with associated site works & services. The site area is 0.1ha.	
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4. Has Schedule 7A information been submitted?		
No	✓	I consider that Preliminary Examination is Not Required in this case.
Yes		I consider that Screening Determination is Not Required in this case.

Inspector: \_\_\_\_\_ Date: 23<sup>rd</sup> day of December, 2024.