



An  
Bord  
Pleanála

## Inspector's Report

**ABP-321669-25**

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<b>Development</b>	Demolition of garage, construction of mews dwelling and all associated site works.
<b>Location</b>	88 Dublin Road, Sutton, Dublin 13, D13 E067
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F24A/0923E
<b>Applicant(s)</b>	Brendan McGrath.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Brendan McGrath.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	21 <sup>st</sup> March 2025.
<b>Inspector</b>	R Taylor

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**Appendix 1 – Form 1: EIA Pre-Screening & Form 2: EIA Preliminary Examination**

## 1.0 Site Location and Description

- 1.1 The site is located to the rear of No. 88 Dublin Road Sutton. No 88 is a two and a half storey semi-detached house finished in render with tiled roof and projecting two and a half storey bay feature to the front elevation. It is part of a group of 6 dwellings of similar design and features. To the front of the dwelling there is a garden area comprising grass and vegetation around the boundaries. There is pedestrian access along the side boundary with number 89, with a separation distance of approximately 1.2 metres. The front boundary comprises a wall approximately 1.2m in height with pillars, hedging to the rear, and pedestrian access to the R105 Dublin Road which is immediately adjacent. There is a bus stop immediately outside the site along the frontage. Opposite the site is Sutton Strand, North Bull Island and Dublin Bay. No 88 is within a row two storey houses orientated southwards, with the rear elevations orientated northwards. A number of these dwellings have parking areas within their respective site frontages, including both dwellings immediately adjacent to this site. These houses all have similar site characteristics to the appeal site in terms of orientation, general shape, and dimensions.
- 1.2 To the rear of this dwelling there is a single storey extension and garden area with mature vegetation adjacent to both boundaries demarcated by walls approximately 1.8m in height. It is broadly rectangular in shape. The appeal site is located at the rear of this garden area and comprises 2 single storey garages finished in render with pitched roofs finished in corrugated metal. These garages are proposed for demolition. There is also a parking area and access gate immediately adjacent along the common boundary with number 87 Sutton Road. Immediately adjacent to the north is an existing road/laneway. This provides vehicular and pedestrian access to the rear of the site and adjacent dwellings to the east and west. It also provides pedestrian access to Binn Eadair View, a housing estate further east. The road/laneway runs adjacent to the south elevation of the Elphin pub, to the northwest of the appeal site adjacent to the lane access, and links to the R809 connecting the Dublin Road to Baldoyle.
- 1.3 A four storey apartment development with provision for vehicular access and car parking is substantially complete to the north opposite the appeal site and accessed from the same road/laneway serving the site.
- 1.4 The site has a stated site area of 0.073ha and is approximately 10.15m in width and 20.44m in length along the eastern boundary. It is approximately 17.73m in length along the western boundary.

## 2.0 Proposed Development

- 2.1 The proposal comprises demolition of garages, construction of a mews dwelling and all associated site works.
- 2.2 The dwelling has a stated floor area of 200sqm. The dwelling has a flat roof design, ridge height of 7.47m, with a vertical enclosure above with a stated height of 9.14m and forms the highest part of the proposed roofscape. The building is square in shape and 9.23m in length at ground floor, 7.91m at upper floors and 10.15m in width. Accommodation comprises a semi basement for storage, with living accommodation at ground floor, and 2 bedrooms and a home office at first floor. There are 3 window openings along the rear elevation with 2 at the front at first floor. There is also access to the roof for maintenance purposes. Finishes include render to walls, and zinc cladding to the rooftop enclosure. Solar panels are also indicated on the roof.
- 2.3 A garden area is proposed to the rear approximately 67.45 sqm in area and includes an outdoor covered area. The building occupies the width of the site up to the site boundaries. A single parking space is provided, and a footpath approximately 1.5m in width along the frontage adjacent to the laneway. The front elevation has a staggered alignment with the edgeway of the laneway, with a setback distance varying between 3.24m at widest, narrowing to 2.56m. The proposed footpath is included in these calculations.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The planning authority refused permission and the decision is dated 12<sup>th</sup> December 2024. 3 refusal reasons are attached to the decision:

1. The proposed development by reason of the design, scale, height and layout would constitute a harmful and discordant feature within the streetscape and would detract from the visual and residential amenities of the adjoining properties. Furthermore, the development in its proposed form is piece meal and haphazard in the absence of a comprehensive plan led approach for the development of the rear gardens associated with Dublin Road and would be contrary to objective SPQHO 42 and objective DMSO 31 of the Fingal Development Plan 2023- 2029, each of which seek to ensure that infill

development is considered in a sympathetic manner.

2. The proposed development is in an area which is at risk of flooding. The applicant has not included a commensurate flood risk assessment and the proposed finished floor levels are below who recommended levels set out in the Fingal strategic flood risk assessment. In the absence of such information an unacceptable flood residual flood risk remains and in this regard the development fails to accord with the planning system and flood risk management guidelines for planning authorities. The proposed development would be contrary to objective IUO16 of the Fingal Development Plan 2023- 2029.
3. The existing laneway over which the proposed development is to be accessed comprises an important pedestrian route where traffic movements are minimal. In the absence of the comprehensive approach to the redevelopment of the sites addressing the laneway to provide adequate access the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.

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

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

- There is a single planning report on file dated 12<sup>th</sup> December 2024.
- Pre-planning consultations were not undertaken.
- Principle is acceptable subject to the RS zoning objective of the Plan.
- Planning history is noted including PA ref: F23A/0553. The rear laneway is backland, however with redevelopment of lands to the north, the existing pattern of development is undergoing significant changes to character. Appeal case proposal varies from the application approved on appeal. Approved case has setback of 5.2m from road edge, and ridge height of 6.2. Current case has setback of 3.7m with ridge of 7.4m. A contiguous layout or elevation plan has not been submitted.
- A coordinated approach taking account of approved development should be taken as opposed to standalone ad hoc basis.
- Overbearance and overlooking on/to adjacent properties/gardens due to proximity to boundaries. Separation is sufficient to avoid overlooking of upper floors.
- Minimal separation to boundaries would impact amenity and result in precedent of terracing effect impacting character.
- Complies with DMSO19 which relates to size of dwellings.

- No significant effects in relation to Appropriate Assessment or Environmental Impacts.

### 3.2.2. Other Technical Reports

- Water Services: recommend refusal in absence of Flood Risk Assessment. Contrary to objective IU016. SuDS provision required.
- Environment Section: no objection.
- Transport Department: recommend refusal. Concerns with intensification, lack of co-ordinated approach and traffic calming. Approved upgrades to laneway to be completed. Safety audits and DMURS compliance should be demonstrated.
- Parks & Green Infrastructure: no objection subject to condition.
- Dublin Airport: no comments.

### 3.3. Prescribed Bodies

- None.

### 3.4. Third Party Observations

- None.

## 4.0 Planning History

- There is no planning history on the appeal site.
- Neighboring Sites:
- F23A/0553: Demolition of single-storey garage to rear of dwelling. Construction of a house and all associated site works. Lands to rear of 91 Dublin Road, Sutton.

ABP-318558-23, Grant on appeal 24/06/24.

- F23A/0553 refused permission on the 1st of November 2023 for three reasons as follows:
  1. The proposed development by reason of the design, scale, height and site layout would constitute an incongruous and discordant feature within the streetscape and would detract from the residential amenities of the adjoining properties. Furthermore, it is considered that in the absence of a coherent plan-led approach for the surrounding lands the development would constitute haphazard and piecemeal development. The

proposed development would be contrary to Objective SPQHO 42 and Objective DMSO 32 of the Fingal Development Plan 2023-2029, each of which seek to ensure that infill development is considered in a sympathetic manner.

2. The proposed development is in an area which is at risk of flooding. The applicant has not included a commensurate flood risk assessment and the proposed finished floor levels are not shown to ordnance datum. In the absence of such information an unacceptable flood residual flood risk remains and in this regard the development fails to accord the Planning System and Flood Risk Management Guidelines for Planning Authorities. The proposed development would be contrary to Objective IUO16 of the Fingal Development Plan 2023-2029.
3. The existing laneway over which the proposed development is to be accessed comprises an important pedestrian route where traffic movements are minimal. The laneway would not be suitable as a shared surface. In the absence of the comprehensive approach to the redevelopment of the sites addressing the laneway to provide adequate access the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.
  - The Boards Reasons and Considerations concluded that the proposal would not “seriously injure amenities of the area...(prejudice) public health...or result in traffic hazard”. 9 conditions attached including:
    - Condition 3 removed exempted development rights, restricting carport space to such use.
  - ABP-311823-21, F21A/0459, Dwelling in rear garden to the rear of 94 Dublin Road, refused 17/10/22.
  - To immediate north of laneway and site:
  - ABP-315139-23, F22A/0469 Revision of F20A/0715 to include 4 additional apartments at 4th floor. Grant 31/07/23
    - The Boards Reasons and Considerations paragraph (g) specifically referred to “the existing function of the access laneway”.
    - One apartment was omitted, condition 3.
  - ABP-309777-21, F20A/0715, Construction of construction of a three-storey building of 21 no. apartments, with 10 car parking spaces. Grant 10/03/21

- The Boards Reasons and Considerations paragraph (g) specifically referred to “the existing function of the access laneway”.
- It went on to state the proposal:  
 “would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience.”

## 5.0 Policy Context

### 5.1 Development Plan

- The Fingal Development Plan 2023 – 2029 was made on 22nd February 2023 and came into effect on 5th April 2023. It has regard to national and regional policies in respect of residential development. The following policy considerations are relevant based on the nature of the proposal:
- Chapter 13 Land Use Zoning: Baldoyle / Howth Sheet No.10 Zoning Objectives - RS – Residential: Provide for residential development and protect and improve residential amenity. Residential is detailed as ‘permitted in principle’ in this zoning.
- Chapter 3: Sustainable Placemaking and Quality Homes.
- Objective SPQHO9 – Consolidated Residential Development: Consolidate within the existing urban footprint, by ensuring of 50% of all new homes within or contiguous to the built-up area of Dublin City and Suburbs and 30% of all new homes are targeted within the existing built-up areas to achieve compact growth of urban settlements, as advocated by the RSES.
- Objective SPQHO10 – New Residential Development: Focus new residential development on appropriately zoned lands within the County, within appropriate locations proximate to existing settlement centres where infrastructural capacity is readily available, and along existing or proposed high quality public transport corridors and active travel infrastructure in a phased manner, alongside the delivery of appropriate physical and social infrastructure. Active travel options should also be considered while liaising with the National Transport Authority and Transport Infrastructure Ireland to ensure public transport options to and from new developments to local amenities such as shops and libraries.

- Objective SPQHO11 – Housing Need: Ensure that adequate and appropriate housing is available to meet the needs of people of all incomes and needs including marginalised groups within our communities, including but not limited to, Traveller households, older persons, people with disabilities, and the homeless, through an appropriate mix of unit types, typologies and tenures provided in appropriate locations and in a manner appropriate to specific needs.
- Policy SPQHP20 – Adaptable and Flexible Housing: Promote all new housing to be designed and laid out in an adaptable and flexible manner to meet the needs of the homeowner as they age as set out in Section 5.2 Flexibility and Adaptability Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities 2007 published by the Department of Environment, Heritage and Local Government.
- Policy SPQHP35 – Quality of Residential Development: Promote a high quality of design and layout in new residential developments at appropriate densities across Fingal, ensuring high-quality living environments for all residents in terms of the standard of individual dwelling units and the overall layout and appearance of developments. Residential developments must accord with the standards set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG 2009 and the accompanying Urban Design Manual – A Best Practice Guide and the Sustainable Urban Housing; Design Standards for New Apartments (DHLGH as updated 2020) and the policies and objectives contained within the Urban Development and Building Heights Guidelines (December, 2018). Developments should be consistent with standards outlined in Chapter 14 Development Management Standards.
- Policy SPQHP36 – Private and Semi-Private Open Space: Ensure that all residential development within Fingal is provided with and has access to high quality private open space and semi-private open space (relative to the composition of the residential scheme) which is of a high-quality design and finish and integrated into the design of the residential development.
- Objective SPQHO35 – Private Open Space: Require that all private open spaces for houses and apartments/duplexes including balconies, patios, roof gardens and rear gardens are designed in accordance with the qualitative and quantitative standards set out set out in Chapter 14 Development Management Standards.
- Objective SPQHO39 – New Infill Development: New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical

character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

- Objective SPQHO42 – Development of Underutilised Infill, Corner and Backland Sites: Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.
- Objective SPQHO43 – Contemporary and Innovative Design Solutions: Promote the use of contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area.
- Chapter 14 Development Management Standards:
  - 14.5 Consolidation of the Built Form: Design Parameters
  - Table 14.4: Infill Development: Infill Development presents unique opportunities to provide bespoke architectural solutions to gap sites and plays a key role in achieving sustainable consolidation and enhancing public realms.
  - Proposals for infill development will be required at a minimum to:
    - Provide a high-quality design response to the context of the infill site, taking cognisance of architectural form, site coverage, building heights, building line, grain, and plot width.
    - Examine and address within the overall design response issues in relation to overbearance, overlooking and overshadowing.
    - Respect and compliment the character of the surrounding area having due regard to the prevailing scale, mass, and architectural form of buildings in the immediate vicinity of the site.
    - Provide a positive contribution to the streetscape including active frontage, ensuring that the impacts of ancillary services such as waste management, parking and services are minimised.
    - Promote active street frontages having regard to the design and relationship between the public realm and shopfronts of adjacent properties.
  - 14.6 Design Criteria for Residential Development in Fingal:
    - 14.6.6 External Factors for Consideration: 14.6.6.1 Daylight and Sunlight, 14.6.6.4 Overlooking and Overbearance.

- Objective DMSO23 – Separation Distance: A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.
- Objective DMSO31 – Infill Development: New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.
- Objective DMSO32 – Infill Development on Corner / Side Garden Sites: Applications for residential infill development on corner/side garden sites will be assessed against the following criteria:
  - Compatibility with adjoining structures in terms of overall design, scale and massing. This includes adherence to established building lines, proportions, heights, parapet levels, roof profile and finishing materials.
  - Consistency with the character and form of development in the surrounding area. Provision of satisfactory levels of private open space to serve existing and proposed dwelling units.
  - Ability to safeguard the amenities of neighbouring residential units.
  - Ability to maximise surveillance of the public domain, including the use of dual frontage in site specific circumstances.
  - Provision of side/gable and rear access arrangements, including for maintenance.
  - Compatibility of boundary treatment to the proposed site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible.
  - Impact on street trees in road-side verges and proposals to safeguard these features.
  - Ability to provide a safe means of access and egress to serve the existing and proposed dwellings.
  - Provision of secure bin storage areas for both existing and proposed dwellings.
- 14.17 Connectivity and Movement:

- Objective DMSO115 – Restriction of New Access Arrangements: Restrict unnecessary new accesses directly off Regional Roads... Ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate, thereby avoiding the creation of traffic hazards.
- Objective DMSO118 – Road Safety Measures: Promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazards.
- 14.17.7 Car Parking, Table 14.18: Car Parking Zones, Table 14.19: Car Parking Standards.
- Objective CIOSO52 – Trees: Protect, preserve and ensure the effective management of trees and groups of trees.
- Objective IUO16 – OPW Flood Risk Management Guidelines: “Have regard to the OPW Flood Risk Management Guidelines 2009, as revised by Circular PL 2/2014, when assessing planning applications and in the preparation of statutory and non-statutory plans and to require site specific flood risk assessments are to be considered for all new developments within the County. All development must prepare a Stage 1 Flood Risk Analysis and if the flooding risk is not screened out, they must prepare a Site-Specific Flood Risk Assessment (SSFRA) for the development, where appropriate.

## 5.2 Relevant National or Regional Policy / Ministerial Guidelines

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). (SRDCSG)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009.
- Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- Design Manual for Urban Roads and Streets (DMURS).

## 5.3 Natural Heritage Designations

- The site is not within or adjacent to a designation. The closest Natural Heritage designations are as follows:
  - North Bull Island SPA (004006) c. 83m
  - North Dublin Bay SAC (000206) c. 83m

- Baldoyle Bay SPA (004016) c. 500 m
- Baldoyle Bay SAC (000199) c. 500 m
- Skerries Islands NHA (001218) c. 12.5km
- Proposed Natural Heritage Areas:
- North Dublin Bay pNHA (000206) c. 83m
- Baldoyle Bay pNHA (000199) c. 500m

## 6.0 EIA Screening

6.1 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. Refer to completed Forms 1 and 2 at Appendix 1 of this report.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1 A summary of the grounds of appeal are as follows:

Refusal Reason 1:

7.1.2 An approved 4 storey apartment development opposite the site is referred to (ABP 315139-22/Fingal Council ref: F22A/0469, see history section above). This included a similar refusal reason and issues.

7.1.3 The proposal would have a negligible impact on the context compared to the approved apartment development. The scale and height of the proposal would comfortably sit within the context.

7.1.4 Coherent Plan-led approach: Pre-planning consultation occurred with the Council in December 2022. The Council advised that they prefer a comprehensive approach to the rear gardens of relevant houses on Dublin Road. Despite extensive liaison with other property owners a consensus was not possible. There is no local plan for this area, and no

prohibition of the development of zoned lands where multiple parties cannot come together and advocate a sequential development of zoned lands. The design of initial dwellings set the context for future development.

- 7.1.5 The design takes account of the approval at 91 Dublin Road (ABP-318558-23), existing, and emerging context. The approval at 91 Dublin Road sets a precedent. It would not be a harmful and discordant feature. The contemporary design is consistent with the approved apartment development. It achieves the Council's goal of avoiding haphazard development and consistency in layout, setback, building line, heights etc. with these permissions.
- 7.1.6 The design is sympathetic to surroundings and will not impact amenity issues including overshadowing and loss of privacy. It complies with objective SPQH04 which "promotes contemporary and innovative design solutions subject to respecting character."
- 7.1.7 No objections were submitted by neighbours, indicative of insignificant impacts.
- 7.1.8 Bin storage provision complies with objective DMSO31 Refuge storage areas.

#### Refusal Reason 2: Flooding and Flood Risk

- 7.1.9 A flood risk assessment prepared by RS Consulting Engineers is appended to the appeal statement. It accords with "The Planning System and Flood Risk Management, Guidelines for Planning Authorities."
- 7.1.10 The flood risk assessment concludes that the development meets the requirements of the guidelines, is appropriate to this flooding zoning, and a justification test is not required.
- 7.1.11 The proposed finished floor level is 4.1 OD above the existing road level and surrounding areas. This is appropriate to ensure any seepage of groundwater into the development does not flood into the proposed house. 4.1 m OD is the preferred level for flood protection purposes and allows provision of a semi basement. This is required to improve the amenity of the dwelling. This has no impact on the scale, height or bulk of the development.
- 7.1.12 The front access door is provided solely for convenience and could be omitted if beneficial in terms of flood protection. The access door to the semi-basement at the rear is above the recommended flood protection level of 3.34m OD but will be provided with any additional flood protection as necessary.
- 7.1.13 Based on any relevant conditions, it is intended to liaise with Fingal Council and Uisce Éireann to ensure drainage services and all flood protection measures are fully compliant with requirements, good practice, and Sustainable Urban Drainage Systems (SuDS) requirements.

### Refusal reason 3: access and traffic issues

7.1.14 The laneway has been approved for a development of 25 apartments. The development has now effectively been constructed as approved including upgrades to the laneway. As the laneway is acceptable for this development, it should also be acceptable for a single car and the appeal proposal. The appellant has a right of way for access to the existing two car garage. The proposal with 1 space will have minimal or reduced impact compared to existing. This has not been considered by the Council.

7.1.15 An opportunity exists, as shown in appended drawings, to provide a public footpath in front of the proposed dwelling with land to be ceded accordingly with a landscaped apron and parking space which will enhance the amenity of this thoroughfare visually and potential users including pedestrians. The proposal provides a significant improvement of the existing route.

## 7.2. Applicant Response

7.2.1 N/A – The applicant is the appellant.

## 7.3. Planning Authority Response

7.3.1 No further detailed comment is provided in relation to the issues raised by the appellant, including in relation to the flood risk assessment appended to their statement.

7.3.2 Issues raised in statutory consultee reports were acknowledged and considered. The assessment had regard to the planning history given the existing laneway has been subject to recent applications for backland development. In recognising the potential for infill development to occur, the planners report noted “the relationship between individual sites should be considered in terms of the design approach and constraints such as building lines, orientation effects for the first-floor levels in terms of overlooking, overshadowing and overbearance”. In the absence of a coherent approach to the development of the laneway and neighbouring sites, significant concerns arise regarding the integration of the development with the surrounding area.

7.3.3 In the event of a successful appeal, provision should be made for the following:

1. A financial contribution or provision for any shortfall and open space and or any special development contributions required in accordance with Fingal County Council Section 48 Development Contribution Scheme.

2. The inclusion of a bond/ cash security for residential developments of two or more units.
3. Conditions where a tree bond or a contribution in respect of a shortfall of play provision facilities are required.

#### **7.4. Observations**

7.4.1 No observations have been received.

#### **7.5. Further Responses**

7.5.1 None received from any party.

### **8.0 Assessment**

8.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, the main issues are as follows:

- a) Principle of Development;
- b) Refusal Reason 1 – amenity, character, and infill development;
- c) Refusal Reason 2 – flooding;
- d) Refusal Reason 3 – access / traffic, parking for existing dwelling (new issue).

a) Principle of Development

8.2 The site is zoned RS 'Residential' with an objective to 'Provide for residential development and protect and improve residential amenity. The development plan details that residential uses are Permitted in Principle on 'RS' zoned lands.

8.3 The application proposes one house to the rear of an existing residential property on RS zoned lands. Subject to further assessment below and having regard to the above zoning objective, the proposed development of one house at this location is acceptable in principle.

8.3 I would also highlight to the Board that consideration of this appeal should have regard to the planning history of the environs of the site. ABP-315139/22 for a 4-storey apartment development (21 no. apartments, with 10 car parking spaces) opposite the site was approved on appeal 10/03/21. In addition, ABP-318558-23 for "Demolition of single-storey garage to rear of dwelling. Construction of a house and all associated site works," was

granted on appeal on 24/06/2024. Both appeals granted redevelopment of the respective sites including vehicular access onto the adjoining laneway.

a) Refusal Reason 1 – infill development, character, and amenity

- 8.4 The first refusal reason is almost identical to refusal reason 1 of ABP-318558-23, save for reference to Objective DMSO31 in the current case as opposed to DMSO32.
- 8.5 Contextual site layout and elevations have been submitted in support of the proposal as part of the applicant's evidence, in response to issues highlighted in the refusal reason relating to an absence of a comprehensive approach. This shows the appeal site in context and includes both appeal cases referred to above. Correspondence to the Council on file from ABP confirms these were provided for comment. I am satisfied this information is supplementary and admissible. The Council has been afforded an opportunity for review and therefore no issues of prejudice arise.
- 8.6 The application proposes a contemporary style two storey house of similar design to that approved under ABP-318558-23 (the approval). The Council state that the ridge height of this proposal is higher than that of the approval. The contextual site layout drawing includes spot height levels relative to ordnance datum (OD). The ridge level for both the appeal and approval are identical at +10.26m OD. It also indicates levels on the adjoining laneway of +3.2m OD adjacent to the approval entrance, with a reduction to +2.8m OD at the edge of the laneway at the appeal site.
- 8.7 A comparison of the two schemes are set out in the table below for ease of reference and clarity:

Feature	Appeal proposal: 88 Dublin Road	Approved at Appeal: 91 Dublin Road
Setback from laneway edge to front elevation	3.04 – 3.7m	6.7 – 7.13m
Site width	10.15m	8.3m
Site length (edge of laneway to new rear boundary)	17.73 – 20.44m	25.26 - 25.97m
Ridge height	7.47m	6.75m-6.2m
House width	10.15m	8m
House depth	9.23m (GF) / 7.91m (FF)	11.85 (GF) / 15.87m (FF)
House Area	200sqm	164sqm
Finished Floor level	+4.11 OD	+4.0 OD
Amenity Space area	67.45 sqm	95 sqm
Amenity Space (depth x width)	6.5 x 9.67m	11.25 x 8.49m
Separation distance to existing house (main rear elevation / extension rear elevation)	32.84 / 20m	32.43 / 24.1m
Amenity space remaining for existing dwelling	195sqm	105sqm
Parking provision for new dwelling	1	1
Parking Provision to front of site	No	Yes

8.8 The above information for the approved appeal at 91 Dublin Rd has been sourced from the inspector's report and appeal drawings. The appellants appeal submission in this case includes a contextual site layout drawing. In compiling the above information, it is apparent that the drafted layout details for 91 Dublin Road do not appear to be correct evidenced, for example, by the setback distance of the front elevation from the adjoining laneway. Scaling this drawing indicates setback distances of approximately 4 metres along the western boundary, extending to approximately 4.8 metres along the eastern boundary. As indicated above, the correct setback distances should be 6.7 – 7.13m at the same locations.

- 8.9 Objective DMSO31 relates to infill development and requires development to respect the height and massing of existing residential units and retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings. Objective SPQHO42 and Section 14.5 Consolidation of the Built Form: Design Parameters are also relevant.
- 8.10 Based on my site visit observations, the approved apartment development opposite the site now appears substantially complete. There was no visual evidence that the appeal approval at 91 Dublin Road has commenced. These cases confirm that the character of the laneway is undergoing change. I note from the contextual elevation provided within the appellants evidence that the appeal approval would broadly align in terms of design, scale, height, massing, and materials with the approval at 91 Dublin Road. The scale, height and massing is significantly less than the approved apartment development opposite. However, I consider that it broadly reflects the architectural treatment approved in that scheme. Having regard to these approved schemes, I consider that the proposed design is acceptable and compliant with relevant policies. The design is contemporary in approach which is supported by objective SPQHO43. The set back of the frontage from the adjoining laneway is retained and respected.
- 8.11 Physical features within respective sites on the southern side of the laneway are not significant in visual or design terms. They are largely screened from public viewpoints within the laneway by the existing garages and outbuildings that are located along the laneway frontage. The building would visually cluster with adjacent garages and Elphin public house to the northwest, when viewed on approach from the east. Public views of the site from the Baldoyle road and stretch of the laneway adjacent to the Elphin public house frontage are largely restricted due to intervening buildings and vegetation. I therefore conclude that impact on local character would not be significant, and the proposal sufficiently takes account of emerging characteristics from planning history in the vicinity of the site.
- 8.12 The refusal reason also references the lack of a comprehensive approach to redevelopment of the laneway. There is no such scheme within the current development plan, and I have not been directed to any such scheme by any parties. I would highlight that a similar argument was presented within the first refusal reason relating to the appeal at 91 Dublin Road. There is no change in circumstances since that decision and I concur with the inspector's conclusions in that case. I do not therefore consider that permission can be refused on this basis.

8.13 These considerations are a requirement of the fourth criterion of DMSO 31 and also within section 14.6.6, part of 14.6 Design Criteria of the plan. 14.6.6.1 relates to Daylight and Sunlight. This requires proposals to ensure “that accompanying public realm areas including areas of outdoor space and seating are not impacted by continuous high levels of shadowing.”

8.14 The proposed dwelling is located a significant distance from the existing dwelling at 88 Dublin Road and neighbouring properties at 87 and 89 Dublin Road. The dwelling is located due north of these existing properties. I consider that the proposal will have a negligible impact on the habitable accommodation of neighbouring properties due to the separation distances. There will be limited impact on adjoining areas adjacent to the proposed dwelling, however I consider the impact acceptable in this urban context and will not result in continuous high levels of shadowing on the entire garden areas taking account of the aspect/orientation of the site. The proposal is acceptable in relation to overbearance for the same reasons. The extent of built form is less than that granted permission at 91 Dublin Road and associated impacts would therefore be less than that scheme.

8.15 In relation to privacy and overlooking there would be no impacts from ground floor window openings of the rear elevation due to the proposed boundary treatment. Overlooking would be possible from first floor rear windows which relate to bedrooms to the rear of 88 Dublin Road, and oblique views towards gardens and dwellings adjacent. Due to the separation distances available, I consider this impact acceptable given the urban context. There are no residential properties in close proximity to the northern side of the laneway. The outlook from front elevation openings is primarily northwards towards the internal access road of the approved apartment scheme. Accordingly, there will be no adverse impacts on properties to the north of the site. The relationship is similar to that approved at 91 Dublin Road.

8.16 Adequate amenity space to the rear of the dwelling is provided in excess of requirements set out in the development plan and design guidance. Similarly, sufficient amenity space will remain for the existing property. The proposal also satisfies requirements for internal space standards. Therefore, the proposal complies with policy requirements and is acceptable.

b) Refusal reason 2: Flood Risk

8.17 The second refusal reason refers to a flood risk assessment not being submitted and inadequate finish floor levels to mitigate flood risk. It states that the development fails to accord with the Planning System and Flood Risk Management Guidelines for Planning Authorities and is contrary to Objective IUO16 of the Fingal Development Plan 2023-2029.

- 8.18 The Fingal Development Plan mapping system indicates much of the site is located within Flood Zone A and B. This is further demonstrated in Flood Zone Map 25 of the Fingal Development Plan 2023-2029, Strategic Flood Risk Assessment- Appendix A Flood Zone Maps.
- 8.19 A flood risk assessment is appended to the appellant's evidence. It identifies the proposal as "highly vulnerable development". It states that there is no fluvial or pluvial flooding influence on the site but could be subject to tidal flooding due to the close proximity to the coast at a distance of approximately 30 metres. The FRA states the proposed finished ground floor level is 4.110 metres OD, 1.3 metres higher than the 1 in 1000 year flood level. In relation to the proposed semi- basement, no habitable space is located within this area and the lowest grade level that accesses these stairs to the semi basement is at 2.810 metres OD. A demountable flood barrier is proposed to be installed across the entrance door of the semi-basement to the level of 3.840 OD. This is 0.5 metres above the 1 in 1000 year flood level which will provide sufficient protection. It concludes the proposal meets the requirements of FRA guidelines and the development is appropriate to the flood zoning and a justification test is not required.
- 8.20 The proposed development is located within the curtilage of No. 88 Dublin Road. This includes the back garden and an existing garage. In this context, I am satisfied the site is an already developed brownfield site and the proposal is clearly an 'Infill'.
- 8.21 Section 5.28 of the 2009 Flooding Guidelines discusses the 'Application of the Justification Test in development management'. The very last sentence in Box 5.1 states -
- "Refer to section 5.28 in relation to minor and infill developments."
- 8.22 Section 5.28 states:
- "Applications for minor development, such as small extensions to houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply. However, a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities. These proposals should follow best practice in the management of

health and safety for users and residents of the proposal.”

- 8.23 I am satisfied the proposed infill development can be considered minor development in this context i.e. the site is zoned residential with an objective to provide for residential development, it is an already developed site and is unlikely therefore to obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. The applicants have now submitted a Flood Risk Assessment, and the proposed finished floor level is 4.1 OD. On the basis of this report, I am also satisfied that the semi-basement details are acceptable in relation to flood risk. There is no contrary evidence from the Council to dispute the conclusions of the supporting report. The Council were afforded the opportunity to review this assessment and have not provided any comments in relation to the conclusions.
- 8.24 I would further highlight a similar approach and finished floor level of 4.0 OD was considered acceptable for the approved appeal case at 91 Dublin Road (ABP-318558-23).
- d) Refusal Reason 3 – access / traffic.
- 8.25 The Planning Authority’s third reason identified the importance of the proposed access laneway as a pedestrian route and where traffic movements are minimal and in the absence of the comprehensive approach to the redevelopment of the sites addressing the laneway the proposal would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.
- 8.26 The Board are referred to the planning history ABP-309777-21 and ABP-315139-23 to the immediate north of the subject development site in which 24 apartments and 10 car parking spaces have been permitted in which in their reasons and considerations the Board had specific regard to the existing function of the access laneway. These permissions include road improvement works and a footpath that would benefit the proposed application.
- 8.27 The Board are also referred to their previous decision ABP-318558-23 in which they approved development for a house on, and access to, this laneway to the rear of No. 91 Dublin Road.
- 8.28 Vehicular parking and access for No. 88 is provided by the rear laneway via the existing garages proposed for demolition. The laneway is effectively a shared surface. My site observations indicated that the lane has been recently resurfaced, and the width increased, broadly in accordance with the appended contextual site layout submitted by the appellant. There were no traffic calming measures on the laneway at the time of my visit.

8.29 The proposed development provides for one car parking space only with dimensions of 2.5m x 5.75m. The latter figure includes the proposed footway and relates to the distance from the front of the dwelling to the laneway edge. This provision meets requirements of the plan which stipulates 0.5 spaces per 2 bedroom dwelling at table 14.19. As noted above, the laneway has been resurfaced. The boundary of the apartment development site opposite has also been set back and new boundary wall constructed. This provides a maneuvering distance of approximately 6m from the rear of the car space to the new footway as part of the apartment redevelopment scheme. This is sufficient to accommodate access and egress into the site. The parking space is also located east of the curved alignment of the new footway opposite the site. Whilst in close proximity to the access road within the apartment development, there is sufficient forward sight distance for vehicles exiting that development relative to the appeal site. The potential for conflict between these accesses is limited, given the proposal is for a single space. Subject to a suitable condition to keep this area free from all works and to provide for one car parking space only, I am satisfied the proposal would not compromise safety and the appropriate redevelopment of adjoining sites on the southern side of the laneway. I would further recommend that exempted development rights are removed by condition, if approved by the Board, to ensure that the parking space/area is exclusively retained for this purpose and related policy requirements are satisfied.

#### Parking Provision for the Existing Dwelling (new issue)

- 8.30 As stated above, existing parking provision is solely at the rear of the site via the laneway. The area to the front of the existing dwelling is a garden area. Immediately outside the garden area, and along its frontage, is a bus stop with associated pole and signage with double yellow line parking restrictions from approximately the eastern front site boundary extending westwards along the Dublin Road to the junction with Baldoyle Road.
- 8.31 If the appeal succeeds and permission is granted, this would have the effect of 'severing' the parking provision from the existing dwelling rendering it with no in-curtilage provision. The planning report and Transport Section response do not discuss this issue. No compensatory provision is proposed or is part of the supporting information.
- 8.32 Table 14.19 sets out parking requirements and the site is within zone 1. There are no details of the existing dwelling included within the supporting information. External visual assessment suggests the dwelling has a minimum of 3 bedrooms by virtue of its size and design. Accordingly, the plan requirement is for 1 parking space for the existing dwelling.
- 8.33 I acknowledge that the site is in close proximity to public transport facilities. However, the

plan requires parking regardless of proximity to such facilities. In addition, the dwelling cannot be serviced readily from Dublin Road by virtue of the bus stop and associated parking restrictions. In addition, on-street parking provision within this stretch of the Dublin Road is further curtailed by entrances to front driveway/parking areas of dwellings, including both dwellings immediately adjacent, along this frontage. On-street parking cannot therefore be facilitated immediately outside of, or in close proximity to, the frontage of the existing dwelling. I consider that appropriate servicing arrangements are also crucial given the restrictions on Dublin Road. There is no supporting evidence on this issue.

8.34 I do not consider that this issue could be dealt with by planning condition, due to the complexity of technical issues that require resolution and would require significant further information to resolve.

8.35 On this basis I consider that the proposal fails to provide adequate parking facilities and servicing arrangements (14.17.7) for the existing dwelling and that road safety (14.17.6 Road Safety and DMSO118) would not be prejudiced based on the supporting evidence. The appeal approval at 91 Dublin Road does not support the proposal in relation to this issue. In that case the existing dwelling benefits from a parking area and vehicular access directly onto Dublin Road and there are no parking restrictions along the adjacent roadside frontage.

8.36 As this is a new issue, the Board may wish to seek the views of the parties prior to determination of this case.

## 9.0 AA Screening

- I have considered the proposed erection of a dwelling and associated works in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- The subject site is located within an urban area and approximately 0.83km to the nearest European Site as discussed at section 5 above.
- The proposed development comprises the erection of a dwelling and associated works as discussed at section 2 above.
- 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 of works and limited scale of the development.
  - The site is not within or adjacent to a protected site or feature, and the location and distance from nearest European site and lack of connections.
  - Taking into account screening by the LPA.
- I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 10.0 Recommendation

10.1 I recommend that permission for the development be REFUSED.

## 11.0 Reasons and Considerations

The development, if permitted, would fail to provide adequate parking and servicing facilities for the existing dwelling at 88 Dublin Road and it has not demonstrated that the proposal would not endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. The proposal therefore fails to satisfy 14.17.7 Car Parking, 14.17.6 Road Safety, and DMSO118 of the Fingal Development Plan 2023-2029.

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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R Taylor  
Planning Inspector

4<sup>th</sup> April 2025

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-321669-25		
<b>Proposed Development Summary</b>	Demolition of garage, construction of mews dwelling and all associated site works.		
<b>Development Address</b>	88 Dublin Road, Sutton, Dublin 13, D13 E067		
<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>		
<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)?</b>			
<b>Yes</b>	✓	Class 10 Infrastructure (b) (i)- Threshold- 500 dwelling units (d) Threshold- Urban Development- involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere	Proceed to Q3.
<b>No</b>			Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			

Yes	✓	Class 10 Infrastructure (b) (i)- Threshold- 500 dwelling units (d) Threshold- Urban Development- involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere Proposal is for 1 dwelling	Preliminary examination required (Form 2)
<b>5. Has Schedule 7A information been submitted?</b>			
No	✓	<b>Screening determination remains as above (Q1 to Q4)</b>	
Yes		<b>Screening Determination required</b>	

Inspector: R Taylor \_\_\_\_\_

Date: 04/04/2025

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## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference Number</b>	ABP-321669-25
<b>Proposed Development Summary</b>	Demolition of garage, construction of mews dwelling and all associated site works.
<b>Development Address</b>	88 Dublin Road, Sutton, Dublin 13, D13 E067
<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>	
<p><b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The development has a modest footprint, comes forward as a standalone project, does not require significant demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p><b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and</p>	<p>The development is situated in an urban area on previously developed land. The development is removed from sensitive natural habitats, designated sites and</p>

