

North Central Area Office,
Northside Civic Centre, Bunratty Road, Coolock, Dublin 17.

Oifig Ceantar an Lárthuaiscirt,
Ionad Cathartha an Taoibh Thuaidh, Bóthar Bun Raite,
An Chúlóg, Baile Atha Cliath 17.
T. 01 222 8541 F. 01 877 5851 E. joanne.osullivan@dublincity.ie

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Ref: NCA/2202204/2017

**The Chairman and Members of
North Central Area Committee.**

**With reference to the proposed Extinguishment of the Public Right of Way over 2
sections of laneway:**

Section 1- between 48-50 Vernon Avenue

**Section 2- between 13-15 Belgrove Road & side of 15-16 St. Joseph's Square ,Clontarf,
Dublin 3.**

The legal procedure to extinguish the public right of way at the above location was initiated under Section 73 of the Roads Act 1993.

Proposal

A request to have the public right of way extinguished over the laneway between 48-50 Vernon Avenue, between 13-15 Belgrove Road & side of 15-16 St. Joseph's Square, Clontarf, Dublin 3 was received from the Residents. The reason for requesting the closure is to prevent break-ins to properties accessed via the laneway, to prevent anti-social behaviour, dumping & graffiti in the laneways. The proposed method of closure is by means of electronic gates with keypads. The residents are willing to place 2 gates on each section of laneway (4 gates in total) if necessary. The extent of the proposed extinguishment is shown on Drawing **RM 36598A** (copy attached).

Statutory Requirement

By public advertisement on 6th April 2017 representations or objections were invited by 8th June 2017.

- We received a strong objection from Dublin City Council's Planning Department who object to the extinguishment of public right of way at this location as it would not encourage permeability or connectivity contrary to the provisions of national and city policy and it may also prejudice the development of 17 houses on the site of the tennis courts (highlighted on the map) which were granted permission under An Bord Pleanála Ref: PL29N.242866 (DCC Ref: 2401/13).
- Objections relating to permeability were received from a number of individual residents in the Clontarf area.
- We received representation from Clontarf Residents Association who are not in favour of extinguishing rights of way over laneways such as this one that lead from one area to another. Their concern lies in the fact that the laneways in question provide an access route for pedestrians and cyclists between Belgrove Road and Vernon Avenue.

Service Checks

A service check was carried out - requirements were highlighted on behalf of EIR, ESB Networks, Public Lighting & Virgin Media:

EIR

EIR request that if 4 gates are erected at the location that all gates have the same access code. This code will be made available to all relevant staff. They have requested that the code be issued to them promptly and if it is changed at any time, notice of the change must be conveyed to them without delay. (Note -a notice with the code may be placed on the information notice board in the Clontarf exchange) Once these conditions are met EIR will not have an objection to the Extinguishment of Public Right of Way at the location.

ESB Networks

ESB pointed out the existence of an ESB Low Voltage cable and Wall Box in the laneway between 13 and 15 Belgrove Road supplying electricity to the residential properties at Saint Joseph's Square. ESB Networks require 24 hour, 7 day a week access to this plant to maintain continuity of supply to these premises. Access to this plant would have to be maintained by the provision of a key and key safe or access codes for the proposed gate at the entrance to the laneway at 13-15 Belgrove Road.

* Note: Should the ownership of the laneway change from Dublin City Council to a third party or parties ESB Networks will require a Specific Right of Way from the Wall Box at the gable end of 16 Saint Joseph's Square to the public roadway at Belgrove Road and a wayleave over the existing cable in the laneway. In this instance the existence of the above plant should be brought to the attention of the new owner(s) of the land should they be intending to develop over the site. This would include the erection of the proposed gates at the entrance to the laneway.

Public Lighting & Electrical Services Division

Public Lights Engineering Section have advised that there are 6 street lights in the laneway in question. They carried out a circuit survey and the details are as follows:

There are six (6) no. public lights located in the laneways to the rear of 34-48 and side of 50 Vernon Avenue, rear of 15-45 Belgrove Road and side of 13 Belgrove Road, rear/side of 14, 15 & 16 St. Joseph's Square. The lights are numbered 6, 7, 8, 9, 10 & 11. They are 6m columns and all have a PL underground supply. Pole 7 is the main feed point for these lights and it is fed from an ESB B-type service adjacent to P7.

*If the extinguishment of the public right of way goes ahead and gates are installed on the laneways between 48-50 Vernon Avenue and between 13-15 Belgrove Road & side of 15-16 St Joseph's Square Clontarf , Dublin 3 , all six (6) no. lights outlined above will need to be removed and the main ESB service to them disconnected, before the gates are installed. The cost of their removal will be approximately €5,500.

Also, if the proposed development goes ahead in the vacant land and laneways here, a new public lighting scheme will be required for this area, and must be submitted to Public Lighting Services for approval.

Virgin Media

Virgin Media has underground cables rising from the laneway to overhead services attached externally to 15 Belgrove Road and cable attached to the side wall running along the laneway of number 50 Vernon Avenue. Provided Virgin Media can get occasional access to the cable for maintenance they will not have an issue concerning the execution of the above proposal.

Requested information

- At the 19th June 2017 Area Committee meeting Councillors requested that we ask the Planning Department to explain the reasons why this revised proposal to extinguish only 2 sections of laneway rather than the entire laneway network may still prejudice the development of 17 houses on the site of the tennis courts and bring this information back to the July Area Committee Meeting.
Reason- If the 2 sections of laneway between 48-50 Vernon Avenue & between 13-15 Belgrove RD & side of 15-16 St Joseph's Square ,Clontarf D 3 are extinguished there are potential unforeseen consequences due to the unclear status of the remaining

laneway network for the implementation of the development permitted under plan ref. 2401/13

- Elaine Mulvenny undertook to get legal advice from the Law Department with regard to Councillors Liability should they decide to vote against our recommendation to retain the public right of way at the location.
Update: We met with the Law Agent on Tuesday 27th June 2017 and were advised that there would still be liability issues for Councillors should they choose to overturn the Managers recommendation. The reason for this is unintended consequences i.e. in relation to the ambiguous status of the laneway network in the event of extinguishment and also in relation to the issue of a planning application Ref: 2401/13 being submitted on the basis of the entire laneway network being in the charge of DCC and access unto it from the new development.
- Councillor Sean Paul Mahon requested a copy of the site plan be brought to the July Area Committee Meeting
Update: A power point slideshow will be shown at the Area Committee Meeting on 17th July 2017

Recommendation

The proposed extinguishment of the public right of way would reduce permeability and connectivity between Belgrove Road and Vernon Avenue. Permeability is governed by National Policy guidelines therefore I recommend that the Committee **retain** the public right of way over the area as shown on Drawing **RM 36598A.**

Dave Dinnigan

Executive Manager