

**South East Area  
Block 2, Floor 4  
Civic Offices**

**13<sup>th</sup> February 2023**

**To the Chairperson and Members of the  
South East Area Committee**

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**With reference to a proposal to extinguish the Public Right of Way  
over the laneway at rear of No. 32 & No. 33 Dolphin Road, Dublin 12**

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The property owners of No. 32 and No. 33 Dolphin Road have requested to have the public right of way extinguished over the laneway at the rear of their properties. The reason for the proposed extinguishment is to eliminate anti-social behaviour, to improve security in their homes and to prevent the ongoing issue of illegal dumping in the laneway. The proposed method of closure is by means of a lockable gate. The laneway is accessed from Herberton Drive and the portion of the laneway that abuts No. 32 and No. 33 Dolphin Road is a cul-de-sac. The extent of the proposal is shown on the attached map No. R.M. 37662A. The laneway is under the charge of Dublin City Council. The South East Area Committee, at its meeting on 13<sup>th</sup> June 2022 agreed to initiate the statutory procedures to extinguish the public right of way at this location under the provisions of Section 73 of the Roads Act 1993.

**Service Check**

A service check was carried out.

Dublin Fire Brigade, Road Maintenance Services, Water Services Department and Public Lighting & Electrical Services have no objections to the proposal. The Environment & Transportation Department has no objection but has stipulated that the gate must be positioned 5 metres down the laneway and should hang on the rear wall of property No.32 Dolphin Road to allow adequate turning room for vehicles. A City Council housing complex 'Dolphin Court' is located beside No.33 Dolphin Road and one of the properties No. 7 Dolphin Court abuts the laneway. Housing & Community Services has no objection but has stipulated that access will have to be maintained. Virgin Media, Gas Networks and Openeir have no objections. ESB Networks has no objection but has stipulated that access will have to be maintained. The applicants have provided written confirmation to Dublin City Council that the various utility companies and Dublin City Council Departments have been consulted and that all the requirements stipulated will be met should the proposal be successful. Planning Permission may be required for the erection of the gate and discussions in relation to the proposal have taken place with the Area Planner.

**Statutory Requirement**

By public advertisement in the Irish Independent on 20<sup>th</sup> June 2022, representations or objections were invited by the 9<sup>th</sup> August 2022. Site notices were erected on the laneway, on Herberton Drive and on Dolphin Road on 20<sup>th</sup> June 2022 for a period in excess of 14 days. Three submissions were received in relation to this proposal and all requested oral hearings. The requests were from the property owner of No. 27 Dolphin Road, the property owner of No. 10 Herberton Drive and the owner of 'Spot on Paint Repairs' who operates a business in the laneway.

Three separate oral hearings were held on 22<sup>nd</sup> November 2022 in the Crumlin Area Office, all conducted by Brian Hanney, Area Manager for South East Inner City and Pembroke.

The persons objecting to the extinguishment generally raised the same issues as those raised in the original submissions namely:

The first oral hearing was held with the owner of 'Spot On Paint Repairs' who has operated his business in the laneway for over 12 years and the following concerns were expressed by him:

- The portion of the laneway included in the proposal is used by himself and people who live beside the laneway 6 days a week.
- If the laneway is gated then the proposed remaining 5 metre space will not be long enough for large vans/vans with trailers to reverse into if another vehicle enters the laneway. In this situation the vehicle entering the laneway will have no option but to reverse out of the laneway. Children play in the lane and it would be very dangerous for them if vehicles were reversing.
- He is aware of man who uses the laneway with a van measuring 7.5 metres. If there were 2 similar size vans in the laneway and both needed to reverse at the same time more than 15 metres would be required so the proposed 5 metres is not sufficient.
- Potential implications for emergency vehicles if the portion of the laneway is gated.

In his written submission the business owner stated that there is very little if any, anti-social behaviour in the laneway. He also stated that the owners of the two houses applying for the extinguishment rarely use the laneway. He has a car business and travels up and down the lane at least half a dozen times a day and without that space for other businesses or neighbours in the lane to reverse into to let him out it would be dangerous.

The second oral hearing was held with the property owner of No. 10 Herberton Drive who has lived beside the laneway since 2016 and the following concerns were expressed by him:

- There is an automatic gate at the rear of his property that provides access to the laneway. He has a business in Inchicore and uses the laneway regularly to get stock delivered and also when he brings towels home for washing. Trucks making a delivery to his property use the portion of the laneway included in the proposal to turn.
- Work was previously carried out to his property and at the time the truck driver was able to use the portion of the laneway included in the proposal.
- At present vehicles already in the laneway can reverse into the space at the end of the laneway if the driver meets another vehicle coming in the opposite direction and the other vehicle can pass by. It would be dangerous for vehicles to reverse out onto Herberton Drive.
- A car business operates on the laneway. The laneway is used for cars to go into the garage for repair which increases traffic.
- There is a kink at the start of the laneway that can catch drivers.
- He is aware of another man who also uses his van in the laneway.
- The option to make an appeal to the Planning Department or An Bord Pleanála if the proposal is approved was queried.
- The dumping in the laneway is not substantial.
- There is not an issue with people congregating in the laneway. The laneway on the opposite side of the road to this laneway is not a dead end and there is a real problem with anti-social behaviour in that laneway.
- It would be his preference for the right of way to be maintained but if it was gated he could bring his truck into the front of his house.

In his written submission he stated that his rear entrance is only 4 metres from the portion of the laneway proposed to be gated and that he has never seen any anti-social behaviour in it. He states that he does not see the occupants of No. 32 & No. 33 use the laneway for vehicle access and one of the houses only has pedestrian access. He also stated that closing this

part of the laneway does away with a valuable passing point. One of the main reasons for buying his property was the ease of access to the rear.

The third oral hearing was held with the property owner of No. 27 Dolphin Road and the following concerns were expressed by him:

- He has concerns regarding the movement of traffic in the laneway. There is a kink in the laneway, so it is not possible for drivers to see other drivers. At present if a vehicle enters the lane and there is another vehicle coming in the opposite direction, the vehicle exiting the laneway can reverse back into the space which is included in the proposal. The proposed 5 metre set back would not be enough for him to reverse his van which is 6.3 metres long. If the laneway is gated vans and vans with trailers will not have room to reverse and this will force both vehicles onto the road. He has major safety concerns regarding vehicles having to reverse down the laneway. A number of elderly residents who use the laneway are not good at reversing and need the space in the laneway to manoeuvre.
- Neither of the applicants use the laneway so they don't realise how busy the laneway is.
- The dumping in the lane is minimal.
- The residents making the application built a fence in the laneway in 2021 which was reported to the City Council and subsequently removed.
- He is aware of an Antique Dealer who operates on the laneway and uses the portion of the laneway included in the proposal.
- There is very little anti-social behaviour in the laneway
- Consideration should be given for future uses of the laneway including businesses and traffic flow.

In his written submission he stated that he has been living in his home for 12 years and uses the rear laneway as his primary access and at different times throughout the day. The laneway has to his knowledge 3 small businesses using garage premises who operate vans and with daily van deliveries and at times can be relatively busy. There is an awkward bend at the beginning of the laneway which can be difficult to vehicles to reverse around as-is. The area in the proposed plan is actively and daily used to manoeuvre vehicles so as to allow traffic to flow. Should the extinguishment come to pass it would create great inconvenience and significant safety concerns. He stated that the applicants do not use the laneway themselves and the proposed extinguishment will cause traffic problems for the active lane users.

### **Recommendation**

I have considered the issues raised during the three oral hearings and in their original submissions. The 3 parties objecting to the proposal and the applicants all have valid concerns.

On balance the recommendation to extinguish the public right of way over the area indicated on Drawing No. R.M.37662A with the gates positioned 5 metres back down to the laneway is a reasonable compromise.

The Area Traffic Engineer has monitored the location and is satisfied that that if the gate is positioned 5 metres down the laneway that adequate passing room for vehicles is allowed.

The applicants stated in their application that both properties have been broken into and I am satisfied that the gating of the portion of the laneway to the rear of No. 32 and No. 33 Dolphin Road is the best solution to facilitate a safer environment for those who live in the respective properties.

I accordingly recommend that the Committee recommend to the City Council that the extinguishment of the public right of way over the area indicated on Drawing No. R.M. 37662A be approved subject to the requirements of the Fire Officer and the Planning Department in relation to the design of the gate. In addition, the laneway shall not be used by the adjoining property owners or others for unauthorised use.

The extinguishment of a public right of way is a function reserved to the City Council.

**Karl Mitchell**  
**Director of Services, Central and South East**