

Date: 4th July 2023
Ref: LD/ 2951057/2023

**To the chairperson and members of
North Central Area Committee**

With reference to the proposed Extinguishment of the Public Right of Way over a laneway located at 3 – 69 Annadale Drive, Marino, 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 a section of laneway located at 3 – 69 Annadale Drive, Marino, Dublin 3 was submitted to Dublin City Council's North Central Area Office by a majority of residents whose properties abut the laneway. The reason for requesting the closure is to prevent the ongoing issue of anti-social behaviour in the laneway and to improve the safety and security of their homes. The proposed method of closure is by means of gates with coded padlocks. There will be 1 gate between no 33 and 31 Annadale Drive. The extent of the proposed extinguishment is shown on Drawing No RM 37653A (copy attached).

Service Checks

A service check was carried out.

- Gas Networks Ireland has distribution Gas Network's in the vicinity and advise that before any work is carried out current gas network maps must always be kept on site while work is under way.
- ESB have network in this lane and require a wayleave and right of way to the cables.
- Virgin Media have an overhead cable passing 31-33 which they would need access to in future.
- Irish Water noted that there is a foul sewer manhole in the laneway & access to it must be maintained and not built over without an IW build over agreement.
- Dublin City Council's Drainage Division (on behalf of Irish Water) requires immediate risk-free access 24/7/365 to the foul sewer for maintenance.

Statutory Requirement

Notice of a statutory process to consider the extinguishment of the public right of way over the laneway to the rear of 3 to 69 Annadale Drive, Drumcondra, Dublin 9 was published by Dublin City Council in a national newspaper on 26th October, 2022 and was supplemented as required with a site notice detailing the proposal and the means by which members of the public could make a submission in relation to it. 5 written submissions were received by Dublin City Council, 2 in support of the proposal and 3 opposing it.

An Garda Síochána reported that there were 9 incidents of anti-social behaviour recorded on the PULSE system between 2019 and 2023 at this location, which included youths loitering and lighting fireworks at Halloween.

Following a request from a resident, it was agreed to conduct an oral hearing in order to hear submissions from persons who would be effected by either the closure or retention of the right of way. All households that abutted the public right of way were invited to attend the oral hearing.

The oral hearing took place in the Northside Civic Centre, Bunratty Road, Coolock, Dublin 17 on Wednesday, 5th April, 2023.

Of the 7 households that attended 1 was neutral, 3 were opposed to the closure and 3 were in favour. 2 households that were unable to attend submitted written submissions, one from Annadale Drive & one from Griffith Court both expressing support for the extinguishment.

The main issues raised by the households opposed/neutral to the closure can be summarized as follows:

1. Uncertainty around the financial and legal liability that they would be exposed to in relation to the maintenance of the laneway and the storm & foul water drain.
2. Concern that the residents did not understand what they were agreeing to in relation to their responsibility for the laneway if the public right of way was extinguished
3. Concern that agreed arrangements would not be in place between the residents in relation to these responsibilities.
4. The inconvenience a gate would create for current users of the laneway for access, particularly with bicycles
5. Concern around the accuracy of the map in relation to boundaries of individual properties abutting the laneway.

The key issues raised by those in favour of the closure were the following:

1. Illegal dumping that has taken place in the laneway.
2. Antisocial behaviour that occurs in the laneway, such as drinking, smoking and occasionally fires being lit.
3. The security threat to their properties with access to the rear of their properties from the laneway.

The observations of the senior staff member appointed to conduct the oral hearing are as follows :-

- “1. Dublin City Council has made it clear in writing, by e-mail dated 27th July, 2022 to the proposer of the extinguishment of the right of way that the residents will assume responsibility for the maintenance of the laneway and allowing access to utility companies. It is my understanding the residents would not be responsible for the maintenance of the drain itself, just for ensuring access for the relevant body with responsibility for it.*
- 2. Residents supporting the closure should ensure that they understand the implications and the impact of the closure on them and the responsibilities that they are assuming.*
- 3. The agreeing of procedures in relation to issues such as maintenance, access and legal liability for the laneway is a matter for the residents to organise.*
- 4. While I accept it is a change to the current ease of access it is something that I'm sure will become routine after a short period of time.*

5. *While there may be some issues in relation to garden boundaries, which I did not investigate, I do not see this as having a significant impact on the substantive issue of the oral hearing.*
6. *There is no question that illegal dumping has taken place from time to time and unrestricted access to the laneway facilitates this.*
7. *Again the unrestricted access facilitates anti-social behaviour.*
8. *There is no question that the unrestricted access allows prospective burglars access to the rear of the properties and a means of escape that would be hampered by a gate being put in place.*

Conclusion

There have been other laneways closed in the area and my anecdotal knowledge of them would be that they are considered a success by the local residents in minimising anti-social behaviour including dumping and providing a higher degree of security than a laneway with unrestricted access. Furthermore, the closure of a public right of way is a reserved function of the members of Dublin City Council, so residents opposed to the closure can lobby their local councillors on the issue in advance of a vote.

I recommend that the extinguishment of public right of way over the laneway at the rear of 3 to 69 Annadale Drive, Drumcondra, Dublin 9 be recommended to the members of Dublin North Central Area Committee for their consideration”

Recommendation

I recommend that the Committee approve the extinguishment of public right of way over the area shown on the attached drawing RM 37653A for consideration later by the City Council.

Derek Kelly
Executive Manager.

Appendix

At the Area Committee meeting on 19th June 2023, Councillors requested that the Area office provide more detail on the original petition to initiate the extinguishment process. The redacted petition is attached as an appendix to this report. One of original signatories contacted Customer Services on 27th June informing us that they are withdrawing their support for this proposal.