

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

Ref: NCA/2153140/2016

Date: 12th January 2017

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

With reference to a proposal to initiate the procedure for the Extinguishment of the Public Right of Way over laneway to the rear of 34-48 and side of 50 Vernon Avenue, rear of 15-45 and side of 13 Belgrove Road, rear/side of 14, 15 & 16 St. Joseph's Square, Clontarf, Dublin 3.

Proposal

A request to have the public right of way extinguished over the laneway 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 was received from the Residents. The reason for the closure is to prevent break-ins to properties accessed via the laneway, to prevent anti-social behaviour, dumping & graffiti in the laneway. The proposed method of closure is by means of lockable gates. The extent of the proposed extinguishment is shown on Drawing **RM 36598** (copy attached).

Statutory Requirement

By public advertisement on 3rd August 2016 representations or objections were invited by 21st August 2016. We received a number of representations and objections to include residential and business concerns, of relevance is a site surrounded by the lane (indicated on the attached drawing as the Sports Ground & Tennis Ground) which has planning permission and could be negatively effected should the right of way be extinguished

Service Checks

Requirements were also highlighted on behalf of ESB Networks, Public Lighting & Virgin Media.

Eir

Eir objected previously to the proposed extinguishment of the Public Right of Way at the above location because the provision of a key was not deemed adequate. The requirement that multiple staff who may require access to this lane was the main issue and the non feasibility of key provision to each person. We contacted Eir re: the feasibility of electric gates and a key pad should it be possible to provide same. EIR have indicated that electronic gates with key pad would suffice for access.

ESB Networks

ESB Networks has no objection to the extinguishment of the Public Right of Way at the above location. However they have pointed out the existence of an ESB Low Voltage cable and Wall Box in the area proposed for closure supplying the residential properties at Saint Joseph's Square. ESB Networks require 24 hour, 7 day a week access to this plant. 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 from ESB- 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. The estimated cost of removal is €2000.

*Note from Public Lighting- If the ESB is agreeable then Public Lighting could possibly come to an arrangement with the residents whereby, if they wish to retain the existing lights, then ownership of the columns/lights/any cabling etc. is legally transferred over to them. A legal agreement would be required to protect DCC going forward.

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

Recommendation- I recommend retention

Having conducted further research and obtained vital legal and planning advice the following is the position.

The planning permission granted for a development reference 2401/13 and ABP PL. 29N.242866 at Vernon Ave and located in the centre of the lane network outlined, is dependent on the lane remaining in the charge of DCC for the following reasons

- 1. The successful operation of the development specifically relies on the lanes. The lanes are an integral part for the purposes of routing traffic through the lane network. Further, some services for this development will need to connect into the lane. The right of way to install services is through DCC in its current "taken in charge" status. In the longer term there is a requirement for the taken in charge status to remain. Extinguishing the public right of way would remove the "taking in charge" status and de facto place a liability on residents to undertake responsibility for the maintenance and upkeep of the laneway in the long term (* This is a general requirement once an extinguishment comes into effect)**
- 2. Crucially, we are advised that from a legal and planning perspective, should the development work be impeded in any way, or the developer be hindered from proceeding to fulfil his fully approved planning permission**

in completing the development, DCC could be held liable for substantial compensation and /or sued for damages . We are further advised that as above, in the case of Area Committee Members and/or Council Members not approving of this recommendation for retention, members of the Area Committee and/or Council Members could potentially be held personally liable/responsible for payment of compensation and/or damages .

Dave Dinnigan

Executive Manager