



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321834-25

<b>Development</b>	Change of use from gym to residential unit along with all associated site works
<b>Location</b>	98 Dublin Road, Burrow, Sutton, Dublin 13, D13 TO26
<b>Planning Authority</b>	Fingal County Council (FCC)
<b>Planning Authority Reg. Ref.</b>	F24A/1015
<b>Applicants</b>	Eddie & Leslie Lindsay
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v Refusal of Permission
<b>Appellants</b>	Eddie & Leslie Lindsay
<b>Observer</b>	John Culliney
<b>Date of Site Inspection</b>	1 <sup>st</sup> April 2025
<b>Inspector</b>	Anthony Kelly

## **1.0 Site Location and Description**

- 1.1. The subject site is occupied by a semi-detached two-storey house located on the Dublin Road/R105 in Sutton, overlooking Sutton Strand, approximately 100 metres south east of The Elphin public house.
- 1.2. The site is approximately 80 metres long and approximately 10 metres wide. There is a laneway access to the rear of the site, off the Baldoyle Road/R809, which runs in an easterly direction along the side of The Elphin and accesses the rear of properties along Dublin Road, as well as providing pedestrian connectivity to the Binn Eadair View housing development to the north. The site is approximately 130 metres from the junction of the laneway and Baldoyle Road. The rear of the subject site has a block wall and a sliding gate accessing an unrendered single-storey block structure.
- 1.3. The site has an area of 0.0698 hectares. The structure subject of the change of use has a floor area of 64.78sqm.

## **2.0 Proposed Development**

- 2.1. Permission is sought for:
  - a change of use of a detached, single-storey gym and office to a two-bedroom residential unit<sup>1</sup>,
  - a new rear boundary wall with new gate to the laneway and one car parking space (vehicular access already exists via a rear gate proposed for demolition), and,
  - new boundary treatments, sustainable urban drainage system (SuDS), landscaping, and ancillary site works.

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<sup>1</sup> The unit is altered to a one-bed unit as part of the grounds of appeal to part-address one of the reasons for refusal.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. On 13<sup>th</sup> January 2025, Fingal County Council (FCC) refused permission for the following five reasons:

1. In the absence of a comprehensive, plan-led approach for the development of the existing laneway and rear gardens associated with Dublin Road, the development in its proposed form would be piecemeal and would be contrary to Objective SPQHO42 and Objective DMSO31 of the Fingal Development Plan 2023-2029, each of which require that infill development is sympathetic to its context.
2. The proposed house as presented would fail to meet the requirements of the 'Quality Housing for Sustainable Communities' Guidelines in terms of minimum floor areas, minimum bedroom dimensions, and the provision of adequate kitchen and bathroom facilities. As such, the proposed development would be contrary to Ministerial guidelines issued to planning authorities under Section 28 of the Planning and Development Act 2000 (as amended) and would contravene Objective DMSO19 of the Fingal County Development Plan 2023-2029.
3. The proposed house would provide an inadequate amount of usable and high quality private open space. The proposed development would therefore contravene Specific Planning Policy Requirement 2 of the 'Sustainable Residential Development and Compact Settlements' Guidelines and as such would be contrary to Ministerial guidelines issued to planning authorities under Section 28 of the Planning and Development Act 2000 (as amended).
4. The existing laneway through which the proposed development is to be accessed is an important pedestrian route with minimal traffic movements. In the absence of any comprehensive proposals for the upgrade of this lane, the redevelopment of the sites addressing the lane, and the management of vehicle movements along its length, the proposed development would constitute ad hoc piecemeal development which would endanger public safety by reason of a traffic hazard.
5. The proposed development is in an area which is at risk of flooding. The applicant has not included a site specific flood risk assessment and no justification test. In

the absence of such information an unacceptable 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.

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

#### **Planning Report**

- 3.2.1. Though the proposed development is acceptable in principle having regard to the zoning objective of the site, in the absence of a comprehensive, plan-led approach to the development of the laneway there are concerns in relation to the failure to meet standards and requirements for the residential development on infill sites and section 28 guidelines. The proposed development would be an ad hoc intensification of a narrow laneway which would be premature pending the upgrade of same.

#### **Other Technical Reports**

**Water Services Department** – A refusal is recommended in relation to flood risk. In relation to surface water drainage there is no objection subject to standard conditions.

**Transportation Planning Section** – Given the current condition of the lane permission should be refused on the grounds that it would comprise a traffic hazard.

### **3.3. Prescribed Bodies**

**DAA** – No comment.

### **3.4. Third Party Observations**

- 3.4.1. One third party observation was received from John Culliney. The issues raised are covered by the observation on the grounds of appeal, as summarised in subsection 6.3.

## **4.0 Planning History**

- 4.1.1. The relevant planning history of the site and vicinity can be summarised as follows:

On Site

- 4.1.2. P.A. Ref. F23A/0002 – In 2023 permission was granted for a detached single-story gym and office space, new rear boundary wall with new gate to laneway, and all associated works. This has been constructed.

No. 94 Dublin Road (approx. 30 metres to the west)

- 4.1.3. P.A. Ref. F20A/0683 – In 2021 FCC refused permission for a single-storey one bedroom house to the rear of the existing house, two car parking spaces accessed off the lane to rear, and all site works, and retention permission of a new vehicular and pedestrian entrance from the lane because (i) the condition of the laneway and the potential for the endangerment of public safety by reason of traffic hazard.
- 4.1.4. P.A. Ref. F21A/0459 / ABP Ref. ABP-311823-21 – In 2022, the Board, following a first party appeal of the FCC decision to refuse permission, refused permission for a single-storey mews house to the rear of existing house, two car parking spaces accessed off lane to rear, subdivision of the garden area, and all site works for a similar reason to that set out under F20A/0683, above.
- 4.1.5. P.A. Ref. – F23A/0240 – In 2023 FCC granted permission for alterations to previously approved garage/home gym development (F18B/0186), to form a single storey detached garden room to the rear garden of the existing house, consisting of home gym, home office, utility room and loft storage space within the roof space, one car parking space with access off lane to rear, and all associated site works.
- 4.1.6. P.A. Ref. F24A/0989 – In 2025 FCC refused permission for change of use of approved garden room development (F23A/0240) to a single-storey mews house also involving minor changes to the approved internal and external plan and elevations, set back of rear wall to create a 6.5 metre laneway, vehicular access off lane to provide one car parking space, subdivision of the overall garden, and site works because (i) in the absence of a comprehensive plan-led approach for development of the rear gardens of Dublin Road houses it would be contrary to infill development objectives of the FDP 2023-2029, (ii) the absence of a site-specific flood risk assessment and justification test, and (iii) in the absence of a comprehensive approach to the redevelopment of the sites addressing the laneway the proposed development would endanger public safety.

No. 91 Dublin Road (approx. 60 metres to the west)

- 4.1.7. P.A. Ref. F23A/0553 / ABP Ref. ABP-318558-23 – In 2024, following a first-party appeal of the FCC decision to refuse permission, the Board granted permission for demolition of the existing garage to the rear of the existing house and construction of a detached single and two-storey flat roofed contemporary style mews type house including a covered carport with access via the existing laneway.

88 Dublin Road (approx. 80 metres to the west)

- 4.1.8. P.A. Ref. F24A/0923E / ABP Reg. ABP-321669-25 – In 2024 FCC refused permission for the demolition of an existing garage at the rear and construction of a two-storey mews house over a semi basement structure and associated site works for reasons similar to those set out under F24A/0989, though it also includes reference to the design, scale, height, and site layout. The decision is subject of a first party appeal to the Board with a decision due on 20<sup>th</sup> May 2025.

Rear of The Elphin public house (approx. 50 metres to the west on the opposite side of the laneway)

- 4.1.9. P.A. Ref. F20A/0715 / ABP Ref. ABP-309777-21 – In 2022, following a first party appeal of the decision by FCC to refuse permission, the Board granted permission for demolition of the existing 856sqm warehouse building and the construction of two three-storey apartment blocks comprising 21 apartments, upgrades to the access roadway from Baldoyle Road (R809) comprising traffic calming measures and shared vehicular and pedestrian access 6 metres in width (reduced locally to 4.2 metres adjacent to the public house over 18 metres) and associated site works.
- 4.1.10. Two subsequent applications were granted (P.A. Ref. F22A/0469 / ABP Ref. ABP-315139-22 and P.A. Ref. F23A/0677 / ABP Ref. ABP-318977-24) which provided for an additional floor containing three apartments on one of the buildings and subsequently amendments to same. This development is nearing completion and is known as Binn Éidear Hall.

## 5.0 Policy Context

### 5.1. Fingal Development Plan (FDP) 2023-2029

- 5.1.1. The site is in an area zoned 'RS – Residential' to 'Provide for residential development and protect and improve residential amenity'. Residential use is permitted in principle.
- 5.1.2. Detail relevant to the proposed development includes that contained in subsections 14.6 (Design Criteria for Residential Development in Fingal), 14.8 (Housing Development/Standards), and 14.10 1 (Corner/Infill Development). There is no relevant reference to mews development in the Plan.
- 5.1.3. The planning authority's reasons for refusal refer to four objectives of the Plan. These are:

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 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 DMSO19 (New Residential Development) – Require that applications for residential developments comply with all design and floor area requirements set out in:

- Quality Housing for Sustainable Communities – Best Practice Guidelines 2007,
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009, the companion Urban Design Manual – A Best Practice Guide, DEHLG 2009,
- Sustainable Urban Housing: Design Standards for New Apartments 2020.

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 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. Natural Heritage Designations**

- 5.2.1. The nearest designated areas of natural heritage are North Dublin Bay Special Area of Conservation (SAC) (site code 000206), North Bull Island Special Protection Area (SPA) (site code 004006), and North Dublin Bay proposed Natural Heritage Area (pNHA) (site code 000206), all approx. 100 metres to the south of the proposed development area.

## **5.3. Environmental Impact Assessment (EIA) Screening**

- 5.3.1. Part of the proposed development does not come within the definition of a 'project' for the purposes of EIA i.e. the proposed change of use does not comprise construction works, demolition, or intervention in the natural surroundings. The other elements of the proposed development are not classes for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning & Development Regulations, 2001 (as amended). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 to this report.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. The main issues raised in the first party grounds of appeal can be summarised as follows:
- The FCC decision is contrary to guidelines relating to increased density. The failure of the planning authority to prepare a masterplan for the area should not be



a reason for refusal. It is important that the Board examines the application in terms of national and regional guidelines and then the FDP 2023-2029. The Planning Statement submitted with the application to FCC is attached to the grounds of appeal and should be considered an essential part of the appeal documentation.

- The overall layout of the area is very suitable for development of a mews lane. FCC have refused applications for one-off mews on the grounds it can only be considered if there is a comprehensive scheme including all householders. This is presently not feasible. This should not delay or deny those who do want to develop. A simple masterplan has been submitted with the grounds of appeal<sup>2</sup> which widens the lane to six metres.
- Reference is made to F23A/0553 / ABP-318558-23 for a mews house to the rear of 91 Dublin Road which was granted by the Board following a refusal by FCC.

First reason for refusal (absence of a plan-led approach)

- The proposed development would conform to the requirement to densify land close to public transport nodes, is appropriately zoned, and all development control standards are met and exceeded.
- It is impossible to countenance an overall approach to the contemporaneous development of twenty mews buildings to the rear of Dublin Road houses by residents, which is the unrealistic approach called for by FCC. Other than FCC undertaking a compulsory purchase scheme, residents will have their own timeframes. The Board has permitted an apartment development and a mews to the rear of 91 Dublin Road which will work as a catalyst for the overall development of the lane.
- Mews must be seen as a central part of national policy to increase density. There is no mention of mews development in the FDP. Reference is made to mews development in the context of the Dublin City Development Plan (DCDP) and the proposed development meets and exceeds the reasonable standards set out in that Plan.

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<sup>2</sup> This is referred to as drawing no. 105 on page 2 of the grounds of appeal. However, no drawing no. 105 has been provided and drawing no. 103 is the relevant drawing no.

- The house design, car parking, private open space, site area, and retention of trees and hedgerows is referenced.

#### Second reason for refusal (floor areas of the house)

- Minor adjustments have been made to the floor plan and it has been altered to a one-bedroom unit where all rooms comply and exceed standards. Drawing no. 102 has been submitted with the grounds of appeal reflecting these alterations.

#### Third reason for refusal (private open space)

- The boundary between the existing and proposed site has been modified and 76sqm private open space is provided, as per revised drawing no. 102.

#### Fourth reason for refusal (laneway)

- A draft plan for the lane has been provided with the grounds of appeal. A previous 2021 survey observed an average of 2.3 people per hour using the lane.
- The Design Manual for Urban Roads and Streets (DMURS) would support the development of the site currently on the grounds that narrow carriageways are one of the most effective design measures that calm traffic.
- It is clear that with very little work the lane can be easily brought up to a standard surpassing guidelines for mews lanes and the applicants would be willing to contribute to traffic calming measures on the lane.

#### Fifth reason for refusal (flood risk)

- There is no history of flooding on site and in accordance with table 3.2 of the Fingal Strategic Flood Risk Assessment (SFRA) vulnerable development in flood zone C is classed as appropriate and does not require a justification test.

## **6.2. Planning Authority Response**

### **6.2.1. The main issues can be summarised as follows:**

- The improved bedroom and kitchen/living area provision in the revised design is noted, however the bathroom provision remains inadequate.
- The revised design provides adequate private amenity space.

- The planning authority remains concerned that, in the absence of a comprehensive scheme of improvements, the development would be piecemeal and the laneway cannot accommodate additional development in a safe and appropriate manner. Reliance on third party improvements to the laneway is not appropriate as there is no guarantee these would be delivered.
- It was not considered appropriate to grant permission in the absence of a site-specific flood risk assessment (SSFRA).

### 6.3. Observations

6.3.1. One observation was received on the grounds of appeal from John Culliney with an address in Binn Eadair View. The main issues raised can be summarised as follows:

- No objection to the change of use but does object to continuous access by car. The laneway is designed for limited access for service vehicles, not for continuous car traffic. It has no pedestrian space/footpath.
- There is no turning facility. All vehicles using the lane have to reverse up it, always accompanied by a guiding pedestrian.
- The lane is at its narrowest at the subject site where there is also a pedestrian access from Binn Eadair View, which is in constant use. Traffic would present a danger to pedestrians, including children and the elderly.
- More traffic on the lane could attract more curiosity and use by those engaging in anti-social behaviour.
- Photographs are attached to the observation.

## 7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Zoning
- The Planning Authority's First Reason for Refusal (Absence of a Plan-Led Approach)

- The Planning Authority's Second Reason for Refusal (Floor Areas of the House)
- The Planning Authority's Third Reason for Refusal (Private Open Space)
- The Planning Authority's Fourth Reason for Refusal (Laneway)
- The Planning Authority's Fifth Reason for Refusal (Flood Risk)

## 7.1. Zoning

- 7.1.1. The subject site is zoned 'RS – Residential' to 'Provide for residential development and protect and improve residential amenity'. Residential use is permitted in principle in this zoning. Therefore, I consider that the principle of the proposed development is acceptable on site.

## 7.2. The Planning Authority's First Reason for Refusal (Absence of a Plan-Led Approach)

- 7.2.1. The absence of a comprehensive, plan-led approach for the development of the existing laneway and rear gardens associated with houses addressing Dublin Road has been cited among the reasons for refusal in recent planning applications along the laneway, at no. 94 (F24A/0989) and no. 88 (F24A/0923E<sup>3</sup>). Both of these sites are closer to the junction with Baldoyle Road/R809 than the site subject of the current application. This subsection should be read in conjunction with subsection 7.5 (The Planning Authority's Fourth Reason for Refusal (Laneway)) because these two issues are interlinked.
- 7.2.2. Page 9 of the planning authority Planning Report acknowledges the potential for development to occur along this laneway and the opportunity for the revitalisation of the laneway and creation of a distinctive urban edge. I agree in principle. The rear gardens associated with the Dublin Road houses are long and their development along the laneway would have limited impact on the residential amenity of the existing houses. The Elphin public house, the limited commercial activity area adjacent to it, and the Binn Éidear Hall apartment development are zoned 'local centre' in the FDP 2023-2029, and Sutton Dart Station is only an approximate 600 metres walk away.

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<sup>3</sup> This decision is currently under appeal to the Board under ABP-321669-25

- 7.2.3. The planning authority Planning Report suggests a master planning approach should be considered enabling consistent design and layout ensuring safe accesses for pedestrians and vehicles 'as opposed to standalone units in an ad hoc piecemeal manner with an inconsistent design approach toward building heights and set-backs'. I agree with the applicants that a co-ordinated approach to contemporaneous development of the rear gardens of the existing houses is unrealistic, but the draft masterplan layout submitted with the grounds of appeal is not implementable given that it would require the demolition and set back of walls outside of the applicants' control.
- 7.2.4. The grounds of appeal note that the lane was created to provide garages to the rear of the properties and therefore vehicular access. While this is the likely reason for the provision of the lane in the first instance the vast majority of households use the primary vehicular accesses off Dublin Road to access the individual properties and for car parking.
- 7.2.5. The grounds of appeal refer to mews development in the context of the DCDP. Notwithstanding the absence of mews development reference in the FDP 2023-2029, the provisions of the DCDP are not relevant to development in Fingal.
- 7.2.6. The first reason for refusal cites two objectives of the FDP 2023-2029, objectives SPQHO42 and DMSO31 (set out in paragraph 5.1.3). The grounds of appeal make no reference to these two objectives. I do not consider that the proposed development would be contrary to these objectives. Both objectives encourage development in underutilised locations subject to the character of the area and environment being protected. The application involves the change of use of a recently permitted single-storey structure with relatively limited physical alterations to the laneway and site. I do not consider that the proposed development would unduly contravene either of these objectives.
- 7.2.7. As noted in paragraph 7.2.1, this subsection should be read in conjunction with subsection 7.5 (The Planning Authority's Fourth Reason for Refusal (Laneway)), because the issues of the absence of a plan-led approach and the current condition of the laneway are interlinked. Given the conclusion of subsection 7.5 that the laneway in its current condition would endanger public safety by reason of a traffic hazard, I consider that development of this site along the laneway in its current condition, and

outside of a more co-ordinated approach, through a masterplan or other appropriate guidance relating to mews development that may be contained within a Development Plan or other appropriate document, would comprise ad hoc and piecemeal development in a manner that would not be consistent with the proper planning and sustainable development of the area, and I recommend a refusal of permission on this basis. I consider that a reason similar to the Board's reason for refusal for a similar development at no. 94 Dublin Road is appropriate.

### **7.3. The Planning Authority's Second Reason for Refusal (Floor Areas of the House)**

- 7.3.1. The planning authority Planning Report identified deficiencies in the proposed house floor plan in the context of the Quality Housing for Sustainable Communities Guidelines (2007) which is referenced in objective DMSO19 of the FDP 2023-2029. Deficiencies were the minimum floor area for a two-bedroom house, bedroom floor areas, inadequate storage, and inadequate kitchen and bathroom areas.
- 7.3.2. As part of the grounds of appeal a revised floor plan drawing (drawing no. 102) has been submitted altering the unit from a two-bed to a one-bed unit. The floor area of the existing structure would significantly exceed the 44sqm required for a single-storey one bed house. The 13.25sqm bedroom exceeds the required 11sqm. Storage has been increased to 4.3sqm, in excess of the 2sqm required. The kitchen has been relocated into an open plan kitchen/living/dining area which has an aggregate area of 39.2sqm. The bathroom remains unchanged. I note that in the parent permission (the original approved gym/office under F23A/0002) the floor area of the bathroom was 3.1sqm, but it is only 2.25sqm as proposed. The approved and proposed bathrooms are in the same position in the floor plan. The planning authority considers that the bathroom area remains inadequate, and I agree. The bathroom should at minimum have the same floor area as permitted under the parent permission.
- 7.3.3. Having regard to the foregoing, I consider that the revisions made to the layout as part of the grounds of appeal are acceptable except for the bathroom which is significantly smaller than originally permitted. I do not propose to include this as a reason for refusal as it could be addressed by way of a compliance condition. Should the Board decide to grant permission for the development I consider it appropriate to attach a

compliance condition requiring a revised floor plan with a toilet/bathroom area of the floor area permitted in the parent permission.

#### **7.4. The Planning Authority's Third Reason for Refusal (Private Open Space)**

- 7.4.1. The planning authority Planning Report considered that private open space to the rear of the structure would be approximately 25sqm, below the 30sqm required. The Report considered that open space to the sides of the structure function as little more than a side passage and the space to the front would be dominated by the car parking space. I agree with the planning authority that the spaces to the sides and front are not acceptable or useable as quality private open space.
- 7.4.2. In the grounds of appeal, drawing no. 102 shows the rear boundary set back to increase the private open space area to the rear of the structure to 76sqm. I note that the entire property of no. 98 Dublin Road comprised the red-line site boundary so there is no issue with altering the boundary to the proposed mews house as indicated. The planning authority considers the revision to the private open space is acceptable and I agree that the rear boundary set back now provides for adequate quality, useable private open space with no undue adverse impact on the private space area to the rear of no. 98.
- 7.4.3. I consider this reason for refusal has been addressed. Should the Board decide to grant permission I recommend that the site layout as per drawing no. 102 received as part of the grounds of appeal is identified as the permitted layout, in the interest of clarity.

#### **7.5. The Planning Authority's Fourth Reason for Refusal (Laneway)**

- 7.5.1. Concern about the condition of the laneway has been cited as a reason for refusal in recent planning applications at no. 94 (F20A/0683, F21A/0459 / ABP-311823-21, and F24A/0989) and no. 88 (F24A/0923E, currently on appeal to the Board under ABP-321669-25). Both of these sites are closer to the junction of the laneway and Baldoyle Road/R809 than the site subject of the current application. This subsection should be read in conjunction with subsection 7.2 (The Planning Authority's First Reason for Refusal (Absence of a Plan-Led Approach)) because these two issues are interlinked.

- 7.5.2. As set out in subsection 7.2 I agree in principle with the planning authority's Planning Report that this laneway is suitable for appropriate development subject to a master planning or more co-ordinated approach, rather than the ad hoc and piecemeal planning history to date. The main concern relates to the current condition of the laneway and its use as an important pedestrian route for residents of Binn Eadair View and the wider area.
- 7.5.3. This reason for refusal was based on the planning authority's Transportation Planning Section report which noted that traffic movements are historically minimal on this laneway, which is not under the maintenance of the Council and is not a public road as defined by the Roads Act. Notwithstanding the Board's grant of permission for Binn Éadair Hall, the Section still has significant concerns with the suitability of the existing access laneway for further intensification. The report noted that works to the laneway as part of the apartment development had not been carried out (and had not been carried out at the time of my site inspection). The Transportation Planning Section report recommended an approach providing for a full design for the overall upgrade of the laneway.
- 7.5.4. While I acknowledge the difficulty as expressed in the grounds of appeal relating to the coordination of the relevant property owners in the context of a plan for the laneway, the draft masterplan layout submitted is not implementable given that it would require the demolition and set back of walls outside of the applicants' control. In addition, while I accept the basic DMURS premise that narrower carriageways reduce speeds, this laneway varies in width along its length, it has limited surface markings, it is used frequently by pedestrians and cyclists as noted on my site inspection, it has potentially multiple access points, and it has a pedestrian/cyclist access to Binn Eadair View almost immediately adjacent to the subject site entrance. Setting back the front boundary of the site would increase the width of the laneway immediately at the site location but would result in varying widths all along the laneway, which emphasises the need for a co-ordinated approach on this laneway to avoid some properties being developed and some not resulting in significantly irregular laneway widths.
- 7.5.5. I note that permission has been granted on the laneway for an apartment development (F20A/0715 / ABP-309777-21) and a mews-type house to the rear of no. 91 (F23A/0553 / ABP-318558-23). However, each application on each site is considered on its own merits. For example, those two sites are much closer to the junction with



the Baldoyle Road/R809, the laneway is slightly wider, there was previously warehousing on the apartment site and there is a wider frontage, and they are a significant distance from the pedestrian access to Binn Eadair View. In contrast, the subject site is further away from the public road junction, is a narrow area of the laneway, and is immediately adjacent to the pedestrian access to Binn Eadair View.

- 7.5.6. Having regard to the foregoing I agree with the planning authority's fourth reason for refusal which is interlinked with the absence of a comprehensive plan-led approach to the development of the laneway as considered in subsection 7.2. I consider the existing laneway through which the proposed development is to be accessed is an important pedestrian route with minimal traffic movements. In the absence of any comprehensive proposals for the upgrade of the laneway, or, for example, appropriate development management standards for mews development, the redevelopment of the site and the management of vehicle movements along its length would constitute ad hoc piecemeal development which would endanger public safety by reason of a traffic hazard. I consider that a reason similar to the Board's reason for refusal for a similar development at no. 94 Dublin Road is appropriate.

#### **7.6. The Planning Authority's Fifth Reason for Refusal (Flood Risk)**

- 7.6.1. The absence of a site specific flood risk assessment (SSFRA) and justification test has been cited as a reason for refusal in recent planning applications at nos. 94 (F24A/0989) and 88 Dublin Road (F24A/0923E, currently on appeal to the Board under ABP-321669-25).
- 7.6.2. The planning authority Water Services Department recommended a refusal on the basis of flood risk. The Water Services Department report stated that the site 'is located within an area subject to coastal flooding, viz Flood Zone A (>0.5%AEP)'. In contrast, the Planning Report stated that the site does not appear to be in Flood Zones A or B but a SSFRA in accordance with objective IUO16 of the FDP 2023-2029 (as set out in paragraph 5.1.3) would be required to properly assess the development.
- 7.6.3. The grounds of appeal state that the site is in Flood Zone C and the development does not require a justification test. In its response to the grounds of appeal the planning authority stated that it did not consider it appropriate to grant permission in the absence of a SSFRA.

- 7.6.4. Flood Zone Map No. 25 as contained in appendix 1 (Flood Zone Maps) to the FDP 2023-2029 Strategic Flood Risk Assessment (SFRA) shows the subject site is not in Flood Zone A or B i.e. it is in Flood Zone C. Section 3.7 (Receptor Vulnerability) of the SFRA states Zone C areas have a low probability of flooding and development is appropriate from a flood risk perspective subject to assessment of flood hazard from sources other than rivers and the coast.
- 7.6.5. Objective IUO16 requires a SSFRA to be 'considered for all new developments within the County'. The application is for a change of use of an existing structure, rather than a 'new' development, and the site is in Flood Zone C. Though the Water Services Department report considers the change of use would change the vulnerability classification from less vulnerable to highly vulnerable this was in the context of it being in Flood Zone A, which map no. 25 in appendix 1 does not support.
- 7.6.6. Having regard to the foregoing I do not consider the fifth reason for refusal is warranted.

## **8.0 Appropriate Assessment (AA) Screening**

- 8.1. I have considered this application for permission in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended).
- 8.2. The subject site is located in a built-up area. North Dublin Bay SAC (site code 000206) and North Bull Island SPA (site code 004006) are approximately 100 metres to the south of the site.
- 8.3. The development comprises permission for a change of use and some minor ancillary works. No nature conservation concerns were raised in the grounds of appeal.
- 8.4. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on any European Site. The reasons for this conclusion are as follows:
- the small scale and nature of the development,
  - the distance from European sites and the lack of connections, and,
  - the determination of the planning authority.

- 8.5. I conclude, on the basis of objective information, that the 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 (under section 177V of the Planning & Development Act, 2000 (as amended)), is not required.

## **9.0 Recommendation**

- 9.1. I recommend permission be refused for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

1. The existing laneway over which the proposed development is to be accessed comprises an important local pedestrian route. The laneway is considered to be seriously deficient in width along its length and lacks sufficient capacity to safely accommodate the vehicle and pedestrian movements which the proposed development would generate combined with pedestrian movements associated with other development on the laneway and the Binn Eadair View housing development. In the absence of any comprehensive proposals for the upgrade of this lane, and the management of vehicle movements along its length, it is considered that the proposed development would constitute an ad hoc, piecemeal, and uncoordinated development which would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

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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Anthony Kelly  
Planning Inspector  
14<sup>th</sup> April 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-321834-25		
<b>Proposed Development Summary</b>	Permission is sought for: <ul style="list-style-type: none"> <li>• a change of use of a detached, single-storey gym and office to a two-bedroom residential unit,</li> <li>• a new rear boundary wall with new gate to the laneway and one car parking space (vehicular access already exists via a rear gate proposed for demolition), and,</li> <li>• new boundary treatments, SuDS, landscaping, and ancillary site works.</li> </ul>		
<b>Development Address</b>	98 Dublin Road, Burrow, Sutton, Dublin 13 D13 TO26		
<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>	✓  (Only the elements of the development as set out in the second and third bullet points of the development summary come within the definition of a 'project')
		<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>		State the Class here.	

No	✓		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>			
Yes		N/A	EIA Mandatory EIAR required
No		N/A	Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
Yes		N/A	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_