

# **ORAL HEARING AND REPORT**

on

**PROPOSED EXTINGUISHMENT OF  
PUBLIC RIGHT OF WAY**

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between

**WHITEBROOK PARK**

and

**RAHEEN CLOSE**

for

**SOUTH DUBLIN COUNTY COUNCIL**

## **1.0 Introduction**

- 1.1 I have been engaged by South Dublin County Council to conduct an Oral Hearing and prepare a report for the Council on the proposal to extinguish a Public Right of Way between Raheen Close and Whitebrook Park, Tallaght, Dublin 24.
- 1.2 I have visited the above location on four occasions prior to the Oral Hearing which was held on 29<sup>th</sup> March 2018. in connection with the proposed Extinguishment of Public Right of Way.
- 1.3 Following an undertaking I gave at the Oral Hearing on the 29<sup>th</sup> March 2018, I visited the location on two further occasions at night.

## **2.0 Site Location and Description**

- 2.1 The portion on the Public Right of Way the subject of this Proposed Extinguishment is located south of Raheen Road adjacent to the western boundary No. 2 Raheen Road and the rear boundaries of 51 to 67 Raheen Close and the rear boundaries of 23 to 34 Whitebrook Park.
- 2.2 To affect a closure at this location, a total distance of 160 metres, of Public Right of Way would have to be extinguished. This would be made up of 92 meters of public Right of Way shown in red (B. to C.) on attached map, Appendix Map No. 1 and two adjacent sections of Public Right of Way A. to B. (43.5 m) and C. to D. (24.5 m) shown in blue.
- 2.3 The Public Right of Way consists of a 2 meter wide tarmac surface from the concrete footpath on Raheen Road, adjacent to No. 2 Raheen Road, to the concrete path constructed adjacent to the pedestrian gateway on Cheeverstown Road. The Public Right of Way for the most part is within Public Open Space save that portion shown in red on Appendix Map No. 1 where it runs adjacent to the rear boundary walls of 23 to 34 Whitebrook Park and 53 to 54 Raheen Drive and in near proximity to the side boundary of No. 2 Raheen Road and rear boundaries of 54 to 66 Raheen Drive.
- 2.4 The Public Right of Way at present provides direct pedestrian access and connectivity to Shops, Doctor and Dental Surgeries, Schools and Sports Clubs for pedestrians who reside south west of the Cheeverstown Road, in estates such as Kilclare, Dromcarra, Bawnlee, Cloonmore, Glenshane, Swiftbrook and further west and provides direct access and connectivity to Bus Stops, Sports Fields and Leisure Centre Facilities for Schools and pedestrians which are located / reside to the north east of Cheeverstown Road, such as Springfield, Raheen, Ashgrove, Lanndale, St. Marks National School, St. Marks Community School,

### **3.0 Development Plan Zoning.**

- The Right of Way is located within an area with a zoned objective 'OS'- "to preserve and provide for open space and recreational amenity" in the County Development Plan 2016 – 2022.

### **4.0 Proposed Closure**

4.1 South Dublin County Council at its meeting dated 10/07/2017 agreed to initiate the Statutory Procedure under Section 73 of the Roads Act 1993 to extinguish the Public Right of Way at this location, newspaper notices were published, signs erected and a leaflet drop carried out, the closing date for recite of objections was 31/08/2017. The County Council at its meeting dated 25/09/2017 granted an Oral Hearing. The Oral Hearing took place on in County Hall on 29th March 2018 and was attended by 3 representative groups.

4.2 In response to the public advertisement and notices of proposed closure a total of 663 submissions were received by the Council. A breakdown of these submissions is as follows,

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In favour of Extinguishment of the Right of Way	304.
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Against the Extinguishment of the Right of Way	359.
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Of the 359 submissions opposed to the closure, 212 requested the provision of public lighting and or CCTV to be provided and 31 submissions requested public lighting and CCTV Security linked to Garda Station with regular patrols of the Right of Way and the removal of graffiti from walls.

### **5.0 Public Utilities contained within the Public Right of Way.**

5.1 There are two public utilities contained within the Public Right of Way that would be affected by the proposed closure and to which 24 hour service access is required.

Namely, Irish Water who have a 375mm Surface Water Sewer and EIR (formally Telecom Eireann) have underground ducting contained with the area

### **6.0 Written Submissions in Favour of Closure.**

6.1 There were 304 written submissions received in support of the proposed closure which cited the following reasons for closure.

- Anti-Social behaviour resulting in damage to property, windows and doors from bricks, rocks, stones, bottles, being thrown over boundary walls from the Right of Way.
- Criminal behaviour resulting in theft of property from gardens, garden sheds and homes using the Right of Way as means of access and escape.

- Muggings.
  - Aggravated assault.
  - Sexual acts.
  - Litter.
  - Drug dealing.
  - Drug taking.
  - Graffiti.
  - Illegal Dumping.
  - Attempted Rape.
  - Bomb Disposal.
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- Late night noise.

## **7.0 Written Submissions against Closure.**

7.1 There were 359 written submissions received against the proposed closure which cited the following reasons for the Right of way to remain open.

- Provides access to shops and pharmacy.
- Provides access doctor and dental surgeries.
- Provides access for schoolchildren to schools.
- Provides access to Bus Stops.
- Provides access to Leisure Facilities.
- Provides access to Credit Union Office and Post Office.
- Provides direct access for Schools to Swimming Pool.
- If closed off, the closed area would become a dumping ground.
- If closed off, area closed off would attract more Anti Social behaviour.
- If closed off, people with mobility difficulties will have to travel further to access shops, pharmacy and doctor facilities on a route which is less suitable.

## 8.0 Oral Hearing.

8.1 An Oral Hearing into the proposed Extinguishment of Right of Way was held on 29th March 2018 in the County Council Offices, County Hall and was attended by three representative Groups. At which oral submissions were made by each group

- Raheen Residents Association. – 4 Delegates.
- Jobstown Estate Management. – 3 Delegates.
- Whitebrook Residents Association. – 4 Delegates.

### 8.2 Raheen Residents Association.

Raheen Residents Association outlined the history of the Right of Way and went into detail of the difficulties the residents whose boundary walls back onto the Right of Way have and are experiencing on a regular basis. They highlighted the instances of Anti-Social behaviour and Criminality that has occurred on, within and adjacent to the Right of Way. They stated that if the present Right of Way was extinguished, a close by and viable alternative, well lit and safer pedestrian route is readily available through the footpath system within Whitebrook Park. They stated that this alternative route would take no more than two minutes extra to traverse. They suggested that if the Right of Way were to be extinguished one possible method of closure of the Right of Way and use for the green area located to the side of No. 2 Raheen Road and the rear boundary of 51 , 52 Raheen Close would be to install a playground at this location for children in the area

The Resident Association further stated that should the Right of Way be extinguished they were not interested in having the residue green area or Right of Way incorporated into their gardens.

The Residents Association stated that should it be decided that the Right of Way is to remain open, their demand, for their own safety and protection, would be to have:-

- a) A dome like cage to cover the Right of Way, similar to that which covers road pedestrian overpass's, with two ten foot walls so that no missiles would target their homes from the Right of Way.
- b) Proper Public Lighting (maintained regularly by SDCC).
- c) CCTV linked to Tallaght Garda Station (maintained regularly by SDCC).
- d) Regular Garda patrols.
- e) Regular clean up of the Right of Way of illegal dumping and graffiti.
- f) A black spot registered on this Right of Way to inform the community that this lane is unsafe and caution should be used at all times.

The delegates presented to me a folder and letter highlighting the issues they had raised.

### 8.3 Jobstown Estate Management.

Jobstown Estate Management stated that they represented the views of the majority of the residents in approx. ten housing estates which are located to the south west of Cheeverstown Road. These residents use this Right of Way on a regular basis to access Doctors, Chemist, Shops, Credit Union Offices and Post Office all of which are adjacent to or near to the Fortunestown Shopping Centre. They further stated that many of the residents they represent are wheelchair users (10) and/or have mobility impairment issues which require the use of walking rollators (27) and walking frames (9). They state that the Right of Way in its present form and location is the most direct and suitable unobstructed route to the facilities they need to access.

They stated that the alternative route, through Whitebrook Park, to the Fortunestown Shopping Centre is not suitable for Wheelchair users or persons with mobility difficulties due the constant obstruction of footpaths within Whitebrook Park by cars and bikes, obstructing the footpaths. They state that the footpath surface in Whitebrook Park is unsuitable due to defects in the footpath surface and that there is a lack of footpath dishing to accommodate wheelchair users. They stated that the route through Whitebrook Park is longer than the present Right of Way and that even this extra distance, no matter how small, causes difficulty for people with mobility difficulties.

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The delegates presented to me a letter highlighting the issues they had raised.

### 8.4 Whitebrook Park Residents Association.

Whitebrook Residents Association highlighted the reasons on why the Right of Way should not be extinguished and expressed their concerns and fears of what would happen to the lands at the rear of 23 to 34 Whitebrook Park should the Right of Way be Extinguished. They feared it would become a dumping ground with rat infestation, and would attract greater instances of Anti-Social. The Association conceded that the Right of Way is very dark at night, but indicated that proper public lighting along the Right of Way would improve matters greatly. They commented that littering occurs along the right of way and adjacent green area but that residents of Whitebrook Park help clean up this litter on a regular bases.

They highlighted the fact that two rear gardens within Raheen Close have been extended into the green area adjacent to the Right of Way and that this had contributed to the instances of Anti-Social behaviour and has led to groups drinking and lurking in corners. They stated that there had been very little Anti-Social behaviour within the Right of Way in quite some time and that there has been some exaggeration in this regard by the Raheen residents. They feel that some of the problems being experienced by the residents of Raheen Close are because of their rear boundary walls being very low. They do hear people passing down the laneway at night but it isn't bad or very noisy. They stated that is not that they don't want people going through their estate, but as there are a lot of cars there it might not be as safe for school children and others making their way along the road to the schools and shops.

The incorporation of this land is not sought by or favoured by the residents of Raheen Close or Whitebrook Park.

## 9.0 Assessment

- 9.1 I consider the main issue to be
- The impact of closure of this Right of Way would have not only on the Residents of Raheen Close and Whitebrook Park but on the wider Community who avail of this Right of Way.
- 9.2 I have visited the location on six occasions from dark early mornings to daytime to dark evenings and night time. I have observed the pedestrian walking patterns of the area. From my observations this Right of Way is the preferred pedestrian route taken by pedestrians in the morning and day time. It is the preferred pedestrian route taken, predominantly, by males in the dark evening and night time, unaccompanied females, on their own, tended more to use the alternate footpath network within Whitebrook Park in the dark evening and at night, but not all.
- 9.3 The Right of Way is unlit, and is lined on one side by the rear boundary walls of 23 to 34 Whitebrook Park, this boundary wall is 2.1 metres high the other side is bounded by a grass margin of varying widths, and the boundary wall of Raheen Close. The boundary walls of Raheen Close are on average 1.8 meters but because of slight difference in level between the Right of Way and the boundary walls of Raheen Close their effectiveness as a screen for property is reduced. These rear boundary walls are private property and are the responsibility of each individual resident for security and safety. There are three rear garden access gates from houses in Raheen Close into the general area adjacent to the Right of Way.
- 9.4 The rear boundary walls of 53 and 54 Raheen Close have been extended into the grass margin area adjacent to the Right of Way by some 4.5 to 5.5 metres. These build outs obstruct clear lines of sight through the Right of Way to lit roadways and have created alcoves and corners which act as wind breaks, shelter and also places of concealment for those who might engage in Anti-Social behaviour and criminality. See Appendix Map. 2.
- 9.5 The permeability and safety of the area is severely restricted by these two build outs as they provide blind spots in an otherwise open clear passageway. These two build outs are also in direct conflict with the wayleave required for the 375mm surface water sewer and the EIR services which is contained within the area.
- 9.6 To affect a closure of this Right of Way a physical boundary of some description would have to be erected at two locations between the boundary walls of 23 Whitebrook Park and 53 Raheen Close (at point B, Appendix Map. 1.) and between the boundary wall of 34 Whitebrook Park and 66 Raheen Close ( at point C, Appendix Map. 1.). This boundary would have to be permeable with provision of access gates for services and general maintenance at both ends. The area cordoned off would still have to be maintained and inspected on a regular basis.
- 9.7 Due to the existence of services within and adjacent to the Right of Way it would not be possible to allow the area, including the grass margin area, to be incorporated in gardens.

## **10.0 Recommendation.**

Having taken oral evidence at the Hearing, read the submissions and visited the site.

- 10.1 I have regard to the location of the Right of Way its function and use together with its effect on the residential amenity of the area.
- 10.2 I accept that residents who abut the Right of Way are entitled to enjoy their residential amenity without duress, nuisance, noise or Anti-Social behaviour, but there is also a need to make sure all citizens' rights are facilitated.
- 10.3 I do not accept that the Extinguishment of the Right of Way and the fencing off of the area will eliminate the threat of Anti-Social behaviour, nuisance and noise associated with the Right of Way. The area, in my opinion, because of its size, location and configuration would still attract Anti-Social behaviour and would be more susceptible to dumping and would be more difficult to control and police.
- 10.4 The Right of Way forms an important function in the connectivity and permeability of the area.

In conclusion, having considered all the submissions both oral and written, having visited and inspected the site, I recommend that the proposal to extinguish the Public Right of Way between Raheen Close and Whitebrook Park be refused and I recommend to the Council that the implementation of following remedial measures be consider to improve and enhance the public safety and security on the Right of Way.

1. Provide high quality anti-vandal Public Lighting along the Right of Way from Raheen Road to Cheeverstown Road. This lighting should be designed to cover all vulnerable areas so as to highlight and minimise potential danger spots to reduce the risk of crime.
2. Examination of a Community Based CCTV plan such as the scheme supported and grant aided by The Department of Justice and Equality. CCTV to be linked directly to Garda Station.
3. The County Council to examine the circumstances where by the rear boundaries of 53 and 54 Raheen Close have extended into the grass margin area creating potential dangerous blind spots and alcoves along the Right of Way as well as compromising Irish Waters wayleave on the 375mm Surface Water Sewer and EIR service ducting.
4. Provide litter bins in at least four locations, one on Maplewood Road adjacent to the entrance / exit to the Fortunestown Shop Centre, one on the south side of Maplewood Road at the Pedestrian Crossing, one on Raheen Road in the green area adjacent to point A. on Appendix Map. 1. and a fourth at the confluence of the Right of Way and the pathway from Whitebrook Park at point D. on Appendix Map. 1.

5. A mobility suitability survey to be carried out on the footpath surfaces within Whitebrook Park, and any deficiencies identified to be remedied.
6. It is considered that it would be advantages to permit the residents of Raheen Close to increase the height of their rear boundary walls, where the boundary walls abut and adjoin the grass margin area and Right of Way, to effect the maximum protection to their private property.
7. Should the above recommendations be adopted, I recommend that a review of the measures taken be undertaken after a period of 2 years.

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SIGNED.....

*Wael Hosen*

DATED.....

*14/May/2018*

# APPENDIX

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**APPENDIX MAP 1.**



**FORTUNESTOWN SHOPPING CENTRE**

Community Centre

Shopping Centre

COOKSTOWN ROAD

WHITEBROOK PARK

RAHEEN ROAD

RAHEEN AVENUE

WHITEBROOK PARK

WHITEBROOK PARK

RAHEEN CLOSE

RAHEEN CLOSE

CLOSE

**TALLAGHT LEISURE CENTRE**

CHEEVERSTOWN ROAD

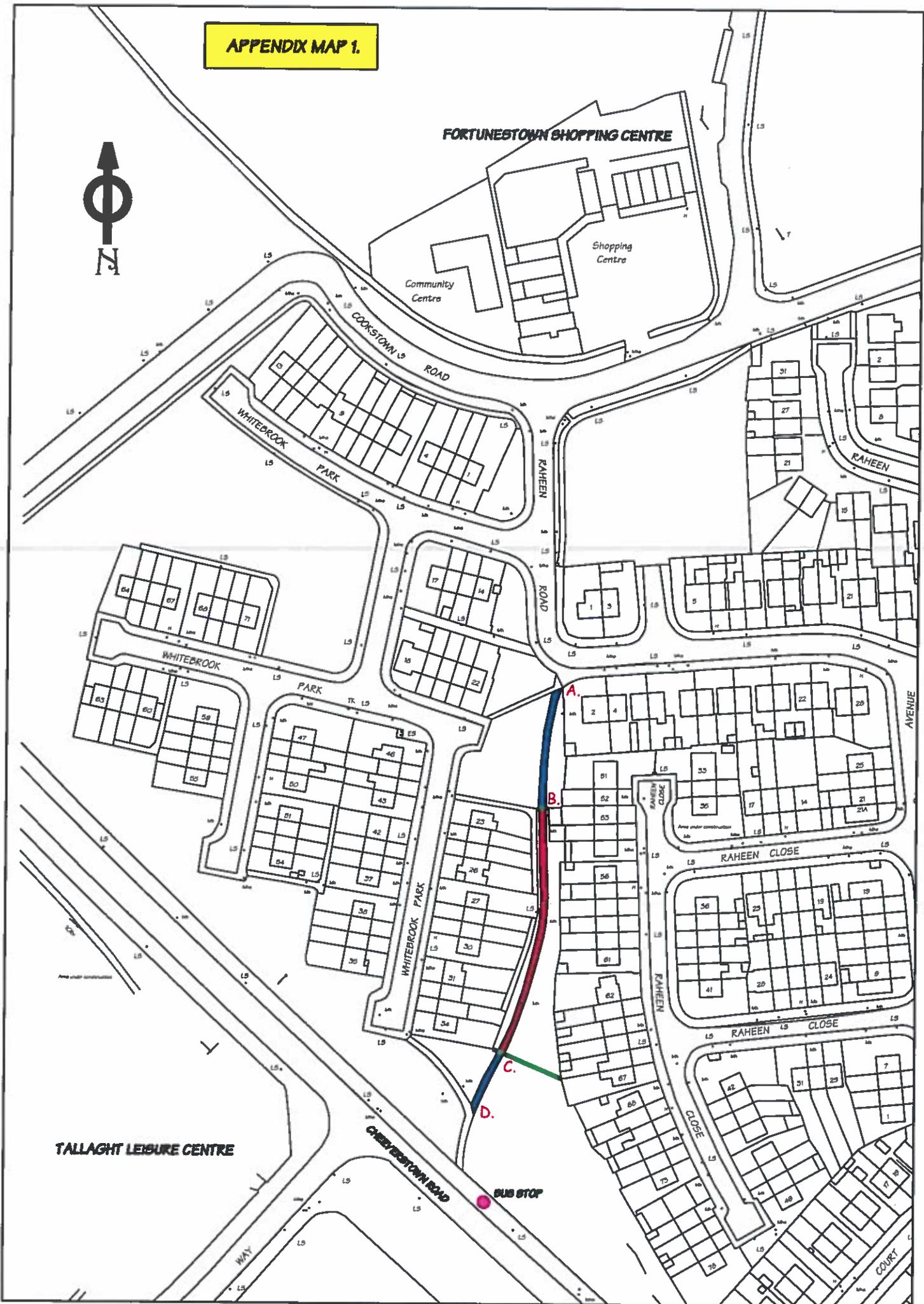
BUS STOP

A.

B.

C.

D.



**APPENDIX MAP 2.**



**FORTUNESTOWN SHOPPING CENTRE**

Community Centre

Shopping Centre

COOKSTOWN ROAD

WHITEBROOK PARK

RAHEEN ROAD

RAHEEN AVENUE

WHITEBROOK PARK

WHITEBROOK PARK

RAHEEN CLOSE

RAHEEN CLOSE

CLOSE

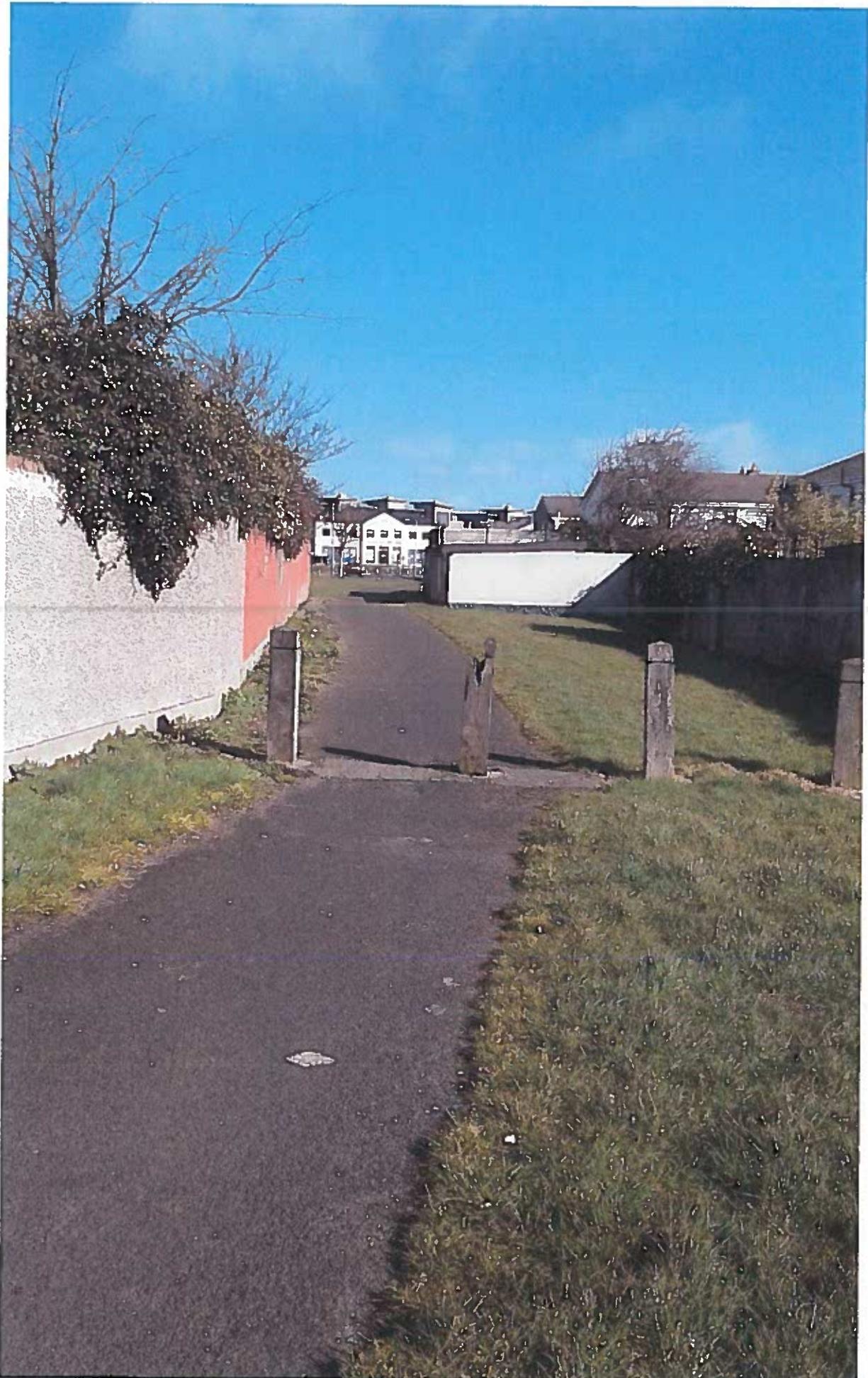
**TALLAGHT LEISURE CENTRE**

CHEEKSTOWN ROAD

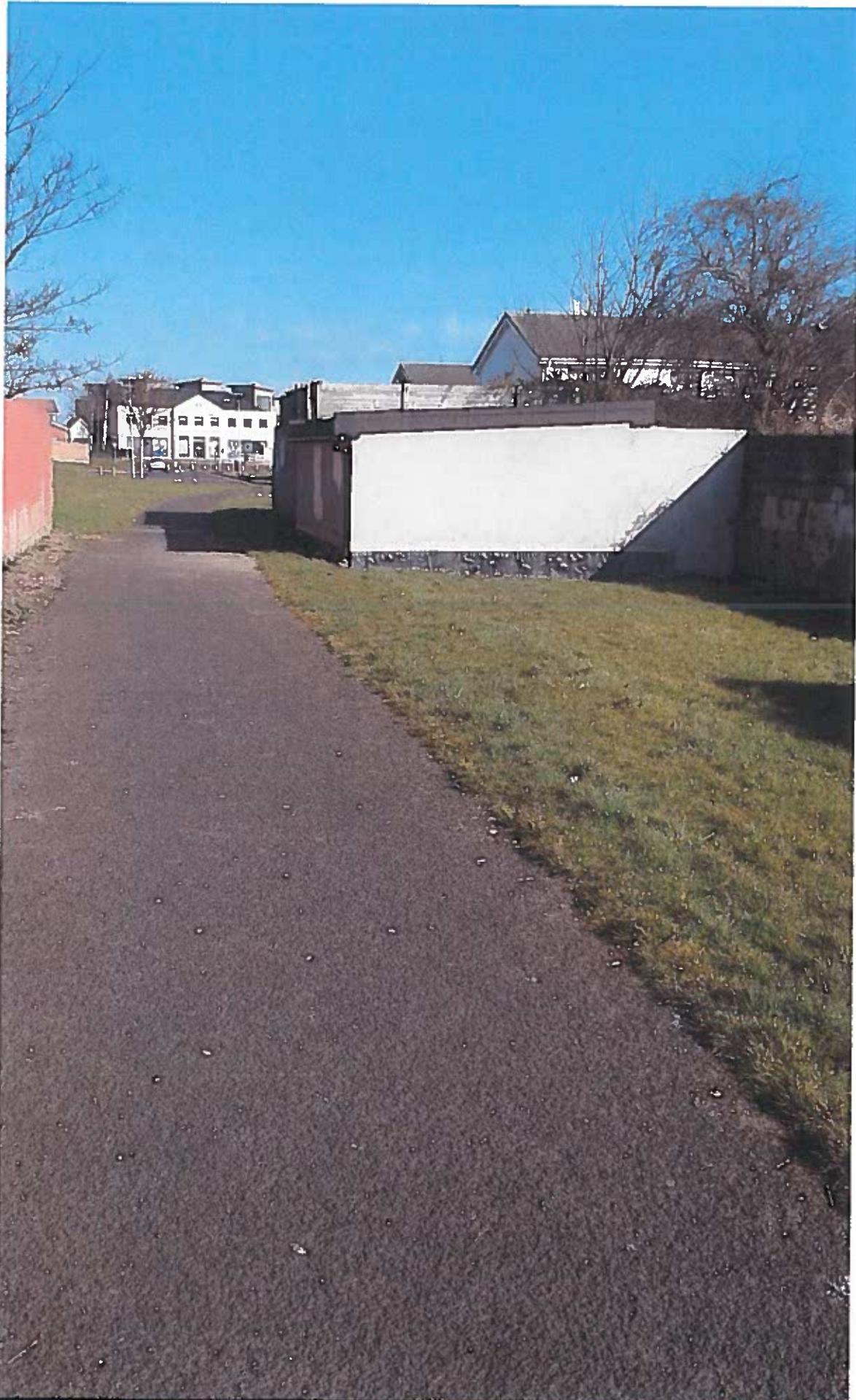
DUB STOP

COURT





**VIEW LOOKING NORTH TO BUILD OUTS THAT CREATE BLIND SPOTS AND RESTRICTED THROUGH VISION**



**VIEW LOOKING NORTH TO BUILD OUTS THAT CREATE BLIND SPOTS AND RESTRICTED THROUGH VISION**



RECESS IN RAHEEN BOUNDARY WALL CREATING BLIND SPOT

