

An  
Bord  
Pleanála

Board Order  
ABP-309227-21

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## Planning and Development Acts 2000 to 2020

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F20A/0008**

**Appeal** by Hillwatch care of Jackie Feeley of "Seabeam", Strand Road, Sutton, Dublin 13 against the decision made on the 15<sup>th</sup> day of December 2020 by Fingal County Council to grant subject to conditions a permission to David Orr care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Retention permission for the removal of a section of hedgerow (to be reinstated as appropriate) and erection of a new wooden fence; and permission for development consisting of the refurbishment and extension of existing dwelling (resulting in 220 square metres gross floor area, total), provision of a disabled access lift, green roof for the purposes of drainage attenuation and visual screening; modifications to existing terrace area (including raising the terrace level to match the internal finished floor level of the dwelling), provision of a home studio accessible by an external stairs from the terrace area, changes in level, hard and soft landscaping, boundary treatments, drainage works, and all associated site development and excavation works above and below ground at a 0.098 hectares site, which is known as Glenlion Cliffs, Thormanby Road, Howth, County Dublin. A further public notice was received by An Bord Pleanála on the 8<sup>th</sup> day of April, 2021.

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## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

Having regard to the nature, scale, extent and design of the proposed development for the refurbishment and extension to the existing dwelling house, within the Howth Head Special Amenity Area on land zoned 'Other', it is considered that, subject to compliance with the conditions set out below, that the proposed development would not detract from the landscape character of this high amenity area, and it would be consistent with the policies and objectives of the Fingal County Development Plan 2017 to 2023, as well as the Howth Special Amenity Area Order 1999. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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## **Appropriate Assessment Screening**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Howth Head Special Area of Conservation (Site Code: 000202) and the Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000) are the only European Sites in respect of which the proposed development has the potential to have a significant effect. The Board considered the Natura Impact Statement and the Revised Natura Impact Statement and associated documentation submitted with the application for permission, the mitigation measures contained therein, the submissions and observations on file including those of the planning authority and consultants appointed by the planning authority, and the Inspector's assessment.

## **Appropriate Assessment**

The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Howth Head Special Area of Conservation (Site Code: 000202) and the Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the report carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the site's conservation objectives, with the exception of the following:

- (a) The removal of the hedgerow and erection of a wooden fence, for which retention permission is sought. With regard to this component, the Board carried out its own assessment and accepted the evidence as set out in the revised Natura Impact Statement that the fence line is not within the Howth Head Special Area of Conservation and the nature of the hedgerow material is such that any loss from its removal would not have impacted on the Howth Head Special Area of Conservation or its qualifying interests and that this component of the development in the absence of mitigation, would not be likely to have a significant effect on Howth Head Special Area of Conservation, or any other European Site and that this component would not have required an Appropriate Assessment before it was commenced.
  
- (b) The provision of the lower ground studio extension and associated works. With regard to this component, the Board carried out its own appropriate assessment and accepted the evidence as set out in the revised Natura Impact Statement, specifically the description at Table 4 which states, that excavation will be carried out on site but not within a vegetated sea cliff area. The Board considered that the information before it was sufficient to undertake a complete assessment of this component of the proposed development in relation to the site conservation objectives of Howth Head Special Area of Conservation (Site Code: 000202) and the Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000) and in overall conclusion the Board was satisfied that this component of the proposed development by itself or in combination with other plans or projects, would not adversely affect

the integrity of the European Sites, in view of the sites' conservation objectives and that there is no reasonable scientific doubt as to the absence of such effects.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives and that there is no reasonable scientific doubt as to the absence of such effects.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 23<sup>rd</sup> day of November 2020 and submitted to An Bord Pleanála on the 16<sup>th</sup> day of February 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed home studio shall be occupied as part of the overall dwelling unit, and shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** In the interest of clarity and to ensure proper planning and sustainable development.



3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house or shall be erected on the site, without a prior grant of planning permission.

**Reason:** In the interest of the amenities of the area.

4. The developer shall, within three months from the date of this Order, remove all timber boundary treatments and replace them with a concrete post and wire fence with brushwood matting.

**Reason:** In the interest of visual amenity.

5. (a) A schedule of all materials and appropriate samples of all materials to be used in the external treatment of the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The submission shall also include 3D colour images of the proposed finishes within the context of the site and as viewed from vantages along the Cliff Path.
- (b) All external window and door opening glazing shall be permanently fitted with solar and reflective control glass. The type of glazing shall be agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure an appropriate standard of development / conservation.

6. A comprehensive boundary treatment and on-site landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) Details of all proposed hard surface finishes, including samples of the proposed paving slabs/materials for surfaces within the development.
  - (b) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings.
  - (c) Details of proposed boundary treatments at the perimeter of the site, including heights, materials, and finishes.
  - (d) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.
  - (e) An accurate tree survey of the site together with a topographical survey of the site and any modulation of grounds levels associated with landscaping including the provision of pathways, terraces and other surface amenity spaces which shall be carried out by an arborist or landscape architect, shall be submitted to the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.

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- (f) Prior to commencement of development, and in consideration of the environmental sensitivities of the site, a Consultant Arborist and a Consultant Ecologist shall be appointed to oversee and monitor the construction works and to ensure that all tree protection measures and eradication of invasive plants from the site are implemented in full.

All boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

7. The invasive plant management plan and public path protection shall be implemented prior to the commencement of site clearance works.

**Reason:** In the interest of the protection of the receiving environment and the proper planning and sustainable development of the area.

8. All mitigation measures contained in the revised Natura Impact Statement, and related documents, shall be implemented in full to protect the receiving environment.

**Reason:** In the interest of the protection of the receiving environment and proper planning and sustainable development of the area.





9. A comprehensive Construction Environmental Management Plan shall be submitted to the planning authority for its written agreement before the commencement of any construction work on the development site.

**Reason:** In the interests of the protection of the receiving environment.

10. All landscaping works including green roofs shall be completed in the first planting season following substantial completion of construction works. Any failures shall be replaced until such time that the green roof planting is established.

**Reason:** In the interest of the protection of the receiving environment and proper planning and sustainable development of the area.

11. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

12. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 8<sup>th</sup> day of January, 2020, and as revised by the further plans and particulars submitted on the 23<sup>rd</sup> day of November, 2020, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the



ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Within three months of the first occupation of the dwelling house after the completion of the refurbishment and extension works, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house after the completion of the refurbishment and extension works and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

**Reason:** In the interest of public health.

- 13. Site development and building works shall be carried out only between the hours of 0800 to 1900 Monday to Friday, and 0800 to 1400 on Saturday and not at all on Sundays or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

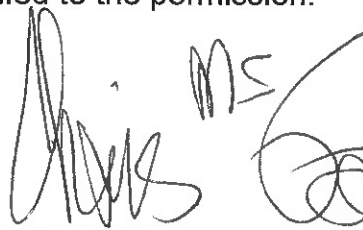
14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
  - (b) Location of areas for construction site offices and staff facilities.
  - (c) Measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network.
  - (d) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
  - (e) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
  - (f) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health, and safety.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



**Chris McGarry**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**



Dated this 24<sup>th</sup> day of September 2021

