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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F22A/0583.**

**Appeal** by Rory O’Sullivan care of Delahunty and Harley of 11A Sydney Terrace, Blackrock, County Dublin against the decision made on the 15<sup>th</sup> day of December, 2022 by Fingal County Council in relation to the application for permission for development comprising works consisting of (a) permission to extend an existing single storey side porch entrance by two square metres and alter the pitch roof to a flat roof, (b) retention permission to extend the rear garden by five square metres into the curtilage of 1 Killeen Terrace, Main Street, Malahide, County Dublin; A protected structure RPS No. 398, (in same legal ownership), and (c) retention permission for the construction of a 35 square metres single storey flat roof annex in the rear garden adjoining the boundary with 2 Killeen Terrace for use as a gym, and all associated site works at Feenagh, Saint Margaret's Road (at the corner of Saint Margaret's Avenue), Malahide, County Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions a permission for (a) permission to extend an existing single storey side porch entrance by two square metres and alter the pitch roof to a flat roof and to refuse permission for (b) retention permission to extend the rear garden by five square metres into the curtilage of 1 Killeen Terrace, Main Street, Malahide, County Dublin; A protected structure RPS No. 398, (in same

legal ownership) and (c) retention permission for the construction of a 35 square metres single storey flat roof annex in the rear garden adjoining the boundary with 2 Killeen Terrace for use as a gym).

## **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.**

## **Reasons and Considerations**

Having regard to the provisions of the Fingal County Development Plan 2023-2029, including the zoning objective for the site (MC – Major Town Centre), which seeks to protect, provide for and/ or improve major town centre facilities; it is considered that, subject to compliance with the conditions set out below, the proposed development and the development proposed to be retained would not seriously injure the visual or residential amenities of the area or the amenities of property in the vicinity of the gym/home office structure, and would not have an adverse impact on the setting of a Protected Structure or the character of the Architectural Conservation Area within which the development is situated. The proposed development and the development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out, completed and retained in accordance with the plans and particulars lodged with the application 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. This retention permission shall not apply to the hatched area on the northern boundary with No.1 Killeen which is denoted as 'area of revised boundary' on drawing number 301 and this element of the retained structure shall be removed, with revised plans to be submitted for the written agreement of the planning authority in this regard.

**Reason:** In the interest of preserving the integrity and character of the protected structure.

3. The gym/home office shall not be used for human habitation, commercial use, industrial use or for any other purpose other than a purpose incidental to the enjoyment of the dwelling.

**Reason:** In the interests of residential amenity.

4. The existing dwelling (Fennagh) and the gym/office shall be jointly occupied as a single residential unit and shall not be sold, let or otherwise transferred or conveyed, except as part of the dwelling.

**Reason:** To restrict the use of the gym/office in the interest of residential amenity.

5. Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.



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

6. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and 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.

7. The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.

**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.

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**Joe Boland**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

Dated this *6<sup>TH</sup>* day of *February* 2024.